



1       A P P E A R A N C E S:

2               ROSEMARY CURRAN SCAPICCHIO, ATTORNEY, Four Longfellow  
3       Place, Boston, Massachusetts 02114, for the Plaintiffs;

4               Tommasino & Tommasino, by MICHAEL W. REILLY, ESQ.,  
5       Two Center Plaza, Boston, Massachusetts 02108, for the  
6       Plaintiff;

7               Roache & Malone, LLP, by JOHN P. ROACHE, ESQ., 66 Long  
8       Wharf, Boston, Massachusetts 02110, for the Defendants.

9               Bletzer and Bletzer, P.C., by HUGH R. CURRAN, ESQ., 300  
10       Market Street, Brighton, Massachusetts 02135, for the  
11       Defendants;

12               Law Offices of William M. White, Jr. and Associates,  
13       WILLIAM M. WHITE, JR., ESQ., 218 Lewis Wharf, Boston,  
14       Massachusetts 02110;

15               Morgan, Brown & Joy, LLP, by MARY JO HARRIS, ESQ., 200  
16       State Street, Boston, Massachusetts 02109-2605, for the  
17       Defendants.  
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PROCEEDINGS

THE COURT: Mr. Boyden is ill. We have not reached him.

MR. CURRAN: The gentleman we had yesterday with the diabetes?

THE COURT: I think we'll ask the jury clerk to find out.

MR. CURRAN: That was juror No. 19.

THE COURT: You're sounding better.

MS. SCAPICCHIO: I don't know if this needs to be on the record. There was an issue that you handed down two jury questions in the criminal trial. There were two questions in the jury trial we wanted to get copies of.

THE COURT: Right.

MS. SCAPICCHIO: You issued an order. I'm not sure you're going to be happy about this, but the Superior Court says they can't honor your order and that I have to go to Judge Hinkle with another order because they don't recognize Federal Court orders.

THE COURT: Say that again and slowly.

MS. SCAPICCHIO: This was not Judge Hinkle, it was the clerk who called me back. I saved the message, and she said had spoken directly to Maura Hennigan who is the clerk in Suffolk Superior Court, criminal side. She was told them in order for us to get those there had to be a Superior

1 Court order, I had to go to Judge Hinkle, file an order, get  
2 it approved by Judge Hinkle and then she could release the  
3 questions. They told Mike yesterday --

4 MR. REILLY: I talked to the clerk.

5 THE COURT: In what respect are questions that a  
6 jury asks not a public record to begin with?

7 MS. SCAPICCHIO: I think it was marked for  
8 identification, not an exhibit.

9 THE COURT: How can it not be a public record?

10 MR. REILLY: I sent my clerk over to get a copy of  
11 it. They said we can't give it to you. She said why.

12 THE COURT: Rather than starting a war --

13 MS. SCAPICCHIO: That's what I didn't want to  
14 start.

15 THE COURT: If you want, I can try to call  
16 Judge Hinkle directly.

17 MS. SCAPICCHIO: That would be great.

18 THE COURT: She might not even know, that's my  
19 concern. Judge Hinkle might not know what has happened in  
20 the clerk's office.

21 THE COURT: Off the record.

22 (A discussion was held off the record.)

23 THE COURT: Mr. Boyden is sick and so he's out.

24 THE CLERK: Corriveau, he's actually 19. He was  
25 our juror No. 7. He was the gentleman, if I remember --

1 THE COURT: That was ill.

2 THE CLERK: -- had diabetes, and he's on the call  
3 back number, and I made a call to Jim, I don't know how you  
4 handle it all. He's saying he's not feeling well today, so  
5 I don't know how you want to handle that.

6 THE COURT: Which one is he, Maryellen?

7 THE CLERK: He was the one who sat. --

8 THE COURT: John Corriveau. I think that the best  
9 thing to do would be to excuse him so as not to run the  
10 risk. With everyone's approval, we'll excuse him.

11 MS. SCAPICCHIO: That's fine, your Honor.

12 THE COURT: 19 and 42 both so we are back at 11.

13 MR. REILLY: I think we've got one more than you  
14 do.

15 THE COURT: Let's go through this. Curran, Baio,  
16 Gedutis, Ryan, Apple, Soraya Assar.

17 THE CLERK: Is what, 6?

18 THE COURT: Sara is 6, Kristie Froman is 7, Lisa  
19 Laing is 8, Bruce Bridges is 9, Girish Rao is 10, Ellen  
20 Perry, you're right, Donna Olson is 12.

21 MR. REILLY: With John Curran we've got 12 now.

22 THE COURT: Let's go. Hi.

23 THE JUROR: Good morning.

24 THE COURT: Mr. Everitt, hi. I'm not sure whose  
25 turn it is, but let's start with the plaintiff.

1 MS. SCAPICCHIO: Hi, my name is Rose Scapicchio.  
2 This is Michael Reilly. We represent the plaintiff,  
3 Shawn Drumgold. We wanted to ask you a couple questions  
4 about this case.

5 THE JUROR: Okay.

6 MS. SCAPICCHIO: This case is a civil lawsuit that  
7 stems from the 1988 shooting death of a little girl by the  
8 name of Darlene Tiffany Moore. She was shot as she sat on a  
9 mailbox back in August of 1988, and the police arrested  
10 Shawn Drumgold. He was tried and convicted and sentenced to  
11 life in prison. After 15 years, he filed a motion for a new  
12 trial, and he was released from prison. Do the facts of  
13 these case ring a bell at all to you?

14 THE JUROR: Slightly. I remember the fact that  
15 the girl got shot, she was shot in the head. I didn't  
16 really get into it, but I remember that part, where the girl  
17 was on the mailbox. That's all I remember.

18 MS. SCAPICCHIO: Did you follow the case at all?

19 THE JUROR: Not really, no. I remember the fact  
20 that it was a little girl that got shot.

21 MS. SCAPICCHIO: What about in 2003, when  
22 Shawn Drumgold was released from prison, did you remember  
23 reading anything about that?

24 THE JUROR: No recollection at all, nothing.

25 MS. SCAPICCHIO: Okay. You indicated on your

1 questionnaire that you are an employee of the City of  
2 Boston?

3 THE JUROR: Correct.

4 MS. SCAPICCHIO: You understand that the City of  
5 Boston is a defendant in this case?

6 THE JUROR: Okay.

7 MS. SCAPICCHIO: Do you think that would interfere  
8 with your ability to serve?

9 THE JUROR: Immaterial, no.

10 MS. SCAPICCHIO: I'm sorry.

11 THE JUROR: Nothing.

12 MS. SCAPICCHIO: You also indicated that you are a  
13 patrol officer with the Boston?

14 THE JUROR: No, I was.

15 MS. SCAPICCHIO: Because there is no more Boston  
16 Municipal Police?

17 THE JUROR: Right.

18 MS. SCAPICCHIO: How long did you work for the  
19 Boston Municipal Police?

20 THE JUROR: Eight years.

21 MS. SCAPICCHIO: Where did you work out of?

22 THE WITNESS: Frontage Road.

23 MS. SCAPICCHIO: Did you work in conjunction with  
24 the Boston Police?

25 THE JUROR: No, I actually started out in Cedar

1 back like the '70s I think it was. I was a dispatcher like  
2 six and a half years, then I went on patrol.

3 MS. SCAPICCHIO: What kind of work did you do on  
4 patrol?

5 THE JUROR: Basically the school buildings, we had  
6 like intrusion alarms, and if there was any problem, we  
7 actually called the police ourselves.

8 MS. SCAPICCHIO: Now, some people think that the  
9 job that police officers do is such an important job in  
10 society that they should never be sued for anything that  
11 they do in their official capacity. Do you agree with that?

12 THE JUROR: All depends on the situation I would  
13 think.

14 MS. SCAPICCHIO: Okay.

15 THE JUROR: I go by individual basis actually.

16 MS. SCAPICCHIO: Perfect. And in this case if the  
17 evidence supported the fact that the defendants in this  
18 case, Detective Walsh and Detective Callahan, violated  
19 Shawn Drumgold's civil rights and that violation led to his  
20 wrongful conviction, would you have any concerns awarding  
21 damages if you knew that Shawn Drumgold had a criminal  
22 history, a criminal past?

23 THE JUROR: It wouldn't make any difference in the  
24 case. If the person's found guilty, then the evidence would  
25 show the fact that they are guilty, if they are not, they



1 would find not guilty and I'd go on the evidence.

2 MS. SCAPICCHIO: Okay. And with respect to the  
3 same question again, if the evidence supported the fact that  
4 Detective Walsh and Detective Callahan violated  
5 Shawn Drumgold's civil rights and that violation led to his  
6 wrongful conviction, would you have any concerns in terms of  
7 awarding damages if you knew that Shawn Drumgold had some  
8 drug problems in the past?

9 THE JUROR: That would make no difference at all.  
10 If the facts show that he was a violator of his civil  
11 rights, then I would go on that prejudice that he was  
12 innocent, and I would award damages if there's any damages  
13 to be awarded.

14 MS. SCAPICCHIO: Thank you. I have no further  
15 questions.

16 THE COURT: Mr. White.

17 MR. WHITE: Sir, my name is William White. With  
18 Mary Jo Harris, Hugh Curran and John Roache, we represent  
19 the defendants in this case, Timothy Callahan and  
20 Richard Walsh, who were Boston police officers at the time  
21 that these events occurred. In 1988, as we just discussed,  
22 there was a 12 year-old girl who was shot while she was on a  
23 mailbox, and I believe you mentioned that I think it was  
24 mentioned that her name was Darlene Moore, she was also  
25 known as Tiffany Moore. Does that ring a bell any further?

1 THE JUROR: No, not really, no.

2 MR. WHITE: You had mentioned in your  
3 questionnaire that you read The Globe and The Herald?

4 THE JUROR: Yes.

5 MR. WHITE: Do you recall reading any stories  
6 recently about Shawn Drumgold in The Globe or Herald?

7 THE JUROR: Nothing recently, no.

8 MR. WHITE: Is that primarily the source of your  
9 information?

10 THE JUROR: Usually I go to the papers first thing  
11 in the morning during my early morning break, I skim real  
12 quick, and if something catches my eye, then I'll read it.  
13 I didn't recall any of this case in it at all.

14 MR. WHITE: In this case, there were a number of  
15 witnesses who were expected to testify. Some of the  
16 witnesses are expected to recant testimony that they offered  
17 at the original trial in 1988. Do you understand what  
18 "recant" means, first of all?

19 THE JUROR: That means you remember something or  
20 something that wasn't true before or they thought was true,  
21 they revised their testimony.

22 MR. WHITE: They're going to change their  
23 testimony. They may come in and say they lied.

24 THE JUROR: Okay.

25 MR. WHITE: Does that affect your ability to

1        assess the witnesses who come in and tell you they lied or  
2        wanted to recant their testimony?

3                THE JUROR: Well, I figure sometimes when you lie,  
4        you're incriminating yourself and you want to protect  
5        yourself, too. Sometimes once you tell a lie, there's  
6        another lie afterwards, a lie about your first lie sometimes  
7        to cover yourself, so, yes, I would think twice about  
8        thinking about their testimony if they're caught lying.

9                MR. WHITE: And you understand that in the manner  
10       that this case proceeds, the plaintiff goes first and then  
11       the defendants have an opportunity to present their  
12       evidence?

13               THE JUROR: Okay.

14               MR. WHITE: And with that, would you keep an open  
15       mind until you've heard all of the evidence in this case?

16               THE JUROR: Yes, I would, yes.

17               MR. WHITE: In other words, you'd hear both sides?

18               THE JUROR: I'd hear both sides first, yes.

19               MR. WHITE: Some of the witnesses in this case  
20       will talk about their drug use. How does that make you feel  
21       when you hear that a witness is going to tell you about  
22       their drug use in general?

23               THE JUROR: Well, some people can't help  
24       themselves when they're on drugs because -- and all they  
25       want is more drugs so they want to do something about

1 getting more drugs, and if it concerns money, then they'll  
2 go with it, but most times you can tell people how they tell  
3 their stories, too.

4 MR. WHITE: Does the fact that somebody sells  
5 drugs impact you differently than somebody who uses drugs?

6 THE JUROR: Yes. I don't think a person who sells  
7 drugs they're well maintained in society. They could find  
8 better things to do even though it's quick money for them,  
9 but I don't really dislike them, I don't want to associate  
10 with them.

11 MR. WHITE: Thank you, sir.

12 MS. HARRIS: Can I follow up very quickly? I'm  
13 Mary Jo Harris, as Mr. White said. When the municipal  
14 police were merged into the Boston Police, were you still  
15 working?

16 THE JUROR: Oh, no, I left them in '86.

17 MS. HARRIS: Okay. What were the circumstances of  
18 your deciding to leave them?

19 THE JUROR: I was having problems with the  
20 management so I says okay, that's enough, see you later.

21 MS. HARRIS: Did you leave voluntarily?

22 THE JUROR: No.

23 MS. HARRIS: Can you tell us anything more about  
24 it?

25 THE JUROR: We were working out of Frontage Road,

1 and it was on a Christmas Day, and I was there fixing my  
2 car, and they thought I was doing something improper. I  
3 says no, but they tried to give me the suspension. I says,  
4 fine, I'm out of here, I'm just done with this. They were  
5 just actually finding fault with everything I was doing at  
6 the particular time, so I just said the heck with it, I'm  
7 out of here.

8 MS. HARRIS: Do you have any ill will toward the  
9 Boston Police, the City of Boston?

10 THE JUROR: No, I do not.

11 MS. HARRIS: And you mentioned in your  
12 questionnaire in question 34 that you had a family member,  
13 close friend or associate who was the victim of a crime, and  
14 you state yes, domestic, girlfriend, injured face?

15 THE JUROR: Yes, that was my girlfriend. She had  
16 a drinking problem, okay, and she came over to my house one  
17 day in a fit of rage, I forget what it was all about, and  
18 she went to smack me, she had a set of keys in her hand, and  
19 she scratched my face, so I called the police on her, and  
20 that was it, and I had her arrested.

21 MS. HARRIS: In answer to that question you're  
22 saying that the girlfriend injured your face?

23 THE JUROR: Yes, that's what the domestic.

24 MR. CURRAN: I don't have any questions, thank  
25 you, sir.

1           THE COURT: I'm going to ask you to call this  
2           number at 6:00 today. You call that list of all the people  
3           who will be on the jury, on the final jury, and if you're on  
4           the final jury, we'll see you on Wednesday, 9:00.

5           THE JUROR: When do I call this?

6           THE COURT: After six today. You have to have  
7           that jury number, wherever that is.

8           THE JUROR: Who gives you that?

9           THE CLERK: It should have been on your summons.

10          THE COURT: Thank you.

11          MS. SCAPICCHIO: Your Honor, could we be heard  
12          before the next juror?

13          THE COURT: What's the problem?

14          MS. SCAPICCHIO: I have some concerns about this  
15          jury being an employee of the City of Boston in that the  
16          City of Boston is a named defendant in the suit. I know he  
17          indicated on the record that it wouldn't affect him.

18          THE COURT: Not only it wouldn't affect him but he  
19          left the City of Boston.

20          MS. HARRIS: He's still employed.

21          MS. SCAPICCHIO: He's still employed?

22          MR. WHITE: He is a custodian.

23          MS. SCAPICCHIO: He works for the city. The city  
24          is a defendant.

25          MR. CURRAN: The old break, your Honor, he was

1 part of the police, if you look, he's custodian of the  
2 school department. He basically stayed with the same  
3 department, he shifted. He has nothing to do with the  
4 defendants in this case, in this phase, otherwise we're  
5 going to eliminate how many hundreds of thousands of people?

6 THE COURT: Is there anyone else in the pool who's  
7 a City of Boston employee?

8 MS. SCAPICCHIO: I didn't see anyone.

9 THE COURT: I'm going to excuse him then.

10 MR. WHITE: Judge, not for nothing, in a case  
11 where if this was a criminal case and there was a federal  
12 employee in the venire who was summoned to sit on the case,  
13 is that person excluded because they are a federal employee,  
14 they can't sit on a jury?

15 THE COURT: No, the federal government is a little  
16 bigger than the City of Boston. It seems to me out of an  
17 abundance of caution, we'll excuse him.

18 THE COURT: Ms. Francisco Parra.

19 MR. WHITE: Judge, this individual, he would  
20 prefer not to sit. Actually the two have indicated some  
21 difficulty.

22 THE COURT: Thank you for pointing that out. What  
23 are you looking at, what number?

24 MS. SCAPICCHIO: Question 30.

25 THE JUROR: Good morning, your Honor.

1           THE COURT: Good morning, Mr. Parra. You said, I  
2 was trying to figure out, is there any particular reason  
3 that you would like to be a juror or would not like to be a  
4 juror, and you said you prefer not given the anticipated  
5 length of the trial. If anyone in this courtroom was asked  
6 if they would prefer to be someplace else, I think it is  
7 fair to say they would prefer to be someplace else. The  
8 question, is this a real hardship for you?

9           THE JUROR: I'd rather be elsewhere.

10          THE COURT: You'd rather be elsewhere. In this  
11 case, we're all in the same boat. Go on, Mr. White.

12          MR. WHITE: Sir, this case stems from the 1988  
13 shooting of a 12 year-old girl by the name of Darlene  
14 Tiffany Moore as she sat on a mailbox in the Roxbury section  
15 of Boston. Do you recall anything about that particular  
16 incident?

17          THE JUROR: No.

18          MR. WHITE: Were you living in the Boston area  
19 back in 1988?

20          THE JUROR: I was.

21          MR. WHITE: Do you recall whereabouts you were  
22 living?

23          THE JUROR: In 1988, I was living in Lexington, I  
24 think.

25          MR. WHITE: Do you recall -- first let me tell you



1 a little bit more. After the shooting and killing of  
2 Tiffany Moore, the police conducted an investigation which  
3 led them to arrest an individual by the name of  
4 Shawn Drumgold who's the plaintiff in this case. Does that  
5 ring any bell with you?

6 THE JUROR: It doesn't ring a bell with me from  
7 back then. I did hear a story on NPR yesterday morning  
8 about the case as I was driving in.

9 MR. WHITE: What did you hear about the case as  
10 you came in yesterday?

11 THE JUROR: What I heard was what you just said,  
12 that a young girl was shot, as I took it from the story, a  
13 shoot-out incident and that, let's see what else, the Boston  
14 Police Department was under some pressure to resolve the  
15 case, that the plaintiff had been convicted of the crime and  
16 spent some time in jail, I believe they said 15 years and  
17 that subsequently two witnesses, I believe they had said had  
18 recanted their testimony as a result of which the plaintiff  
19 was released.

20 MR. WHITE: Anything else you remember about the  
21 story? Is that it? That seems like quite a mouthful.

22 THE JUROR: I think that's it.

23 MR. WHITE: With respect to this particular case  
24 as you indicated, there's going to be some witnesses who may  
25 testify in this case who in 1988 testified one way and later

1 on changed their testimony to say something different. How  
2 would you feel about that?

3 THE JUROR: I don't know how to answer that  
4 question. I would have to see the witnesses and how they  
5 were on the stand.

6 MR. WHITE: And you understand, I know that you're  
7 an attorney, and you understand that there's two sides to  
8 the story, and the plaintiff goes first obviously and the  
9 defendant goes second. You would keep an open mind?

10 THE JUROR: I would try to, yes.

11 MR. WHITE: If you were selected as a juror in  
12 this case, you would keep an open mind until you heard both  
13 sides of the case and then the Judge's instructions before  
14 you made your decision?

15 THE JUROR: Yes.

16 MR. WHITE: Thank you.

17 MS. HARRIS: In listening to the story on NPR, did  
18 it cause you to come to any conclusions about what happened  
19 in this case?

20 THE JUROR: No.

21 MS. HARRIS: If you were presented with evidence  
22 that suggested that the recantations were not credible, is  
23 that something that you think you would be able to hear?

24 THE JUROR: Yes.

25 MS. HARRIS: I think one of the answers to your

1 questions you indicated that you're involved in pending  
2 litigation on a malpractice claim?

3 THE JUROR: That's correct.

4 MS. HARRIS: Can you tell us a little bit about  
5 that?

6 THE JUROR: I'm a defendant in the case. It was a  
7 case involving an appeal from the denial of a Conservation  
8 Commission wetlands permit. It is alleged that I missed the  
9 deadline.

10 MS. HARRIS: What kind of work do you do?

11 THE JUROR: It's primarily land use and planning  
12 law.

13 MS. HARRIS: Have you had any experience in front  
14 of jurors?

15 THE JUROR: I've had one jury trial.

16 MS. HARRIS: Is that also a land use?

17 THE JUROR: It was.

18 MS. HARRIS: Have you ever done any civil rights  
19 work or personal jury work?

20 THE JUROR: No. I take that back. I represented  
21 a shopping mall developer in the Town of Acton who brought a  
22 claim of a violation of civil rights. The case was  
23 settled.

24 MS. HARRIS: Okay. Who did you represent in that  
25 litigation?

1 THE JUROR: It's a while ago.

2 MS. HARRIS: Plaintiff or defendant? I don't know  
3 the details.

4 THE JUROR: Plaintiff.

5 MS. HARRIS: Do you subscribe to or follow  
6 Lawyer's Weekly at all?

7 THE JUROR: Yes, I subscribe to and read Lawyer's  
8 Weekly.

9 MS. HARRIS: Have you read anything in Lawyer's  
10 Weekly about this case?

11 THE JUROR: No.

12 THE COURT: You're out of time. Go on.

13 MS. SCAPICCHIO: Hi, my name is Rose Scapicchio.  
14 This is Michael Reilly. We represent the plaintiff,  
15 Shawn Drumgold. I have a few questions for you, just  
16 follow-ups from what the defense attorneys asked you. Do  
17 you have any opinion, some people think that the police do  
18 such an important job in society that they should never be  
19 sued for anything that happens while they're on the job. Do  
20 you agree with that?

21 THE JUROR: No.

22 MS. SCAPICCHIO: Would you tend to believe the  
23 testimony of a police officer over that of a civilian  
24 witness merely because of his or her position as a police  
25 officer?

1 THE JUROR: No.

2 MS. SCAPICCHIO: In this case if the evidence  
3 supported the fact that Detective Callahan and Detective  
4 Walsh violated Shawn Drumgold's civil rights and that  
5 violation led to his wrongful conviction, would you have any  
6 concerns about awarding damages if you knew that  
7 Shawn Drumgold had a criminal past?

8 THE JUROR: No.

9 MS. SCAPICCHIO: And, again, if the evidence  
10 supported the fact that Detective Callahan and Detective  
11 Walsh violated Shawn Drumgold's civil rights and that  
12 violation led to his wrongful conviction, would you have any  
13 concerns awarding damages if you knew that Shawn Drumgold  
14 had a drug problem?

15 THE JUROR: No.

16 MS. SCAPICCHIO: I don't have anything else, your  
17 Honor. Thank you.

18 THE COURT: Okay. Mr. Parra, 6:00 please call  
19 this number. You need your juror number, which is on your  
20 summons, and then you'll know whether you're on the final  
21 jury. Thank you very much.

22 MR. REILLY: Your Honor, could we have just a  
23 moment? My client needs to use the bathroom.

24 THE COURT: Yes. I just want to make a comment.  
25 I understand what both sides are doing with respect to the

1 questions. The questions are difficult, however, the  
2 question about if you have a witness who changed their  
3 testimony, would that affect you, well, of course, the  
4 answer it does and should, and so I wonder. I'm just noting  
5 that you're going to get ambiguous responses to that because  
6 prior inconsistent statements matter.

7 If your point is, which seems to be very well  
8 taken, this is going to be a long trial and you have to make  
9 sure you hold any judgments until you hear our side of it,  
10 that's a different point, but any careful thinker would say  
11 of course it's going to matter. Likewise your comment about  
12 would it matter that he had a criminal record or the drug  
13 issue in terms of damages, well, that's going to depend  
14 entirely on how you try this case.

15 If the case is going to be I was imprisoned for 15  
16 years and I want damages deriving from that and not  
17 reputation damage or anything else.

18 MS. SCAPICCHIO: The problem with that -- I didn't  
19 mean to interrupt you.

20 THE COURT: Yes, go on.

21 MS. SCAPICCHIO: The problem with that in the  
22 trial testimony Mr. Drumgold at trial admits to a gun, drug  
23 convictions and defacing the serial number of a gun, that's  
24 all coming in as part of the trial. Whether or not we try  
25 to impeach strictly as you want us to, which we hope you do,

1 but that's all going to be before the jury. My goal is to  
2 just get the jurors who say if he's got a problem, I  
3 wouldn't award him money, if he's had a criminal past, I  
4 wouldn't award him money.

5 THE COURT: Because it's an ambiguous question on  
6 the facts of this case, but as I said, there's nothing  
7 improper, it's just the answer to the question may not  
8 necessarily be an answer that disqualifies a juror. It may  
9 actually be a reasonable answer.

10 MS. SCAPICCHIO: The goal isn't disqualify them to  
11 talk about whether or not it's really an issue and we really  
12 find out their views at all.

13 THE COURT: If someone says it's really an issue  
14 linked to damages may not be a disqualifying answer.

15 MS. SCAPICCHIO: I understand, your Honor.

16 THE COURT: There may be another way of asking  
17 this question. This is all advice, not rulings.

18 MS. SCAPICCHIO: Your Honor, the next juror is  
19 opposed to lawsuits of the police department.

20 MS. SCAPICCHIO: What's question No. 24?

21 THE COURT: Why don't we bring him and we'll ask  
22 that question right away. He favors --

23 MS. HARRIS: No. 44, 42 is the guy who called in  
24 sick, I believe, Paul Butler.

25 THE COURT: Butler, I'm sorry. The question is

1 27?

2 MS. SCAPICCHIO: 27, your Honor.

3 THE COURT: Hi, Mr. Butler.

4 THE JUROR: Hello.

5 MS. SCAPICCHIO: Good morning.

6 THE COURT: I'm just going to start the questions  
7 and then we'll turn to the lawyers, five minutes a side.  
8 Nobody can go past five minutes, otherwise I have the hook,  
9 okay. On answer to question No. 27, you were asked people  
10 who have been wrongfully convicted sometimes bring lawsuits  
11 against the police department, do you favor or oppose this  
12 type of lawsuit, and you said oppose. Now, this case is  
13 about an allegation of wrongful conviction and a lawsuit  
14 about that.

15 Would your opposition make it hard for you to sit  
16 on a case like this?

17 THE JUROR: Not really. I wrote down opposed  
18 because I think there's a lot more to it than blaming it on  
19 the police or lawyers, the prosecutors and everything.

20 THE COURT: Okay. If your answer is it depends on  
21 the facts, then that's one thing, if your answer is I think  
22 it's terrible all the time.

23 THE JUROR: No, no.

24 THE COURT: All right. Why don't we proceed.  
25 Counsel.



1 MS. SCAPICCHIO: It's me. Hi, my name is  
2 Rose Scapicchio. This is Michael Reilly. We represent the  
3 plaintiff, Shawn Drumgold in this case. I want to ask you  
4 to see if you have outside knowledge of this case. This  
5 case is actually a civil lawsuit brought as a result of a  
6 murder that took place in 1988, a little girl by the name of  
7 Darlene Tiffany Moore was murdered. The police arrested my  
8 client, Shawn Drumgold. He was tried and convicted and  
9 sentenced to life in prison. After 15 years, he filed a  
10 motion for a new trial, and it was allowed and he was  
11 released.

12 Do the facts of this case at all, the names  
13 Shawn Drumgold or Darlene Tiffany Moore or any of the  
14 underlying facts of the case ring a bell to you?

15 THE JUROR: Yes.

16 MS. SCAPICCHIO: What do you know about the case?

17 THE JUROR: Just an outline basically what you  
18 said, somebody went to jail and done -- I couldn't remember  
19 how many years later got out, and that's basically what I  
20 heard on the news.

21 MS. SCAPICCHIO: Did you follow this case on the  
22 news at all?

23 THE JUROR: No.

24 MS. SCAPICCHIO: Did you follow the case in 1988  
25 when Darlene Tiffany Moore was murdered?

1 THE JUROR: No.

2 MS. SCAPICCHIO: Did you follow it in 2003 when  
3 Shawn Drumgold was released?

4 THE JUROR: No.

5 MS. SCAPICCHIO: Okay. When you said you heard it  
6 on the news, would that be the TV news or newspaper?

7 THE JUROR: TV news.

8 MS. SCAPICCHIO: Do you remember what you heard on  
9 the news at all?

10 THE JUROR: The TV is like background noise but  
11 picked it up just somebody went to jail, a number of years  
12 later got out.

13 MS. SCAPICCHIO: Okay. And you had indicated to  
14 Judge Gertner when she was asking you questioning about how  
15 you answered No. 27, you answered you opposed these type of  
16 lawsuits because you didn't think it was as simple as just  
17 blaming the police, it could be the lawyers or the  
18 prosecutors?

19 THE JUROR: Yeah.

20 MS. SCAPICCHIO: What makes you say that?

21 THE JUROR: Because after the police arrest  
22 somebody, they go to trial, there's prosecutors, there's  
23 defense, there's a jury. To blame everything on the police  
24 you're skipping the part that actually got him convicted.

25 MS. SCAPICCHIO: So you think that the police

1       didn't play a role?

2               THE JUROR: Oh, I don't know.

3               MS. SCAPICCHIO: But when you say the part that  
4 actually got him convicted, what do you mean?

5               THE JUROR: Well, the jury and the prosecutors,  
6 the defense, you know, it was all evidence presented and  
7 all. Actually I should have written undecided, but I think  
8 it's a lot more complex than saying the police.

9               MS. SCAPICCHIO: Okay. So you think there could  
10 be other factors that contributed to a wrongful conviction  
11 other than the police?

12              THE JUROR: Yeah.

13              MS. SCAPICCHIO: Now, you had indicated that you  
14 had some relatives that worked for the Boston Police  
15 Department; is that right?

16              THE JUROR: Yes, a grand uncle.

17              MS. SCAPICCHIO: An uncle?

18              THE JUROR: A grand uncle.

19              MS. SCAPICCHIO: What position?

20              THE JUROR: He's passed away, long retired, passed  
21 away.

22              MS. SCAPICCHIO: Where did he work?

23              THE JUROR: Staff inspection.

24              MS. SCAPICCHIO: And you also have a brother that  
25 was a guard at the Department of Corrections?

1 THE JUROR: Yes.

2 MS. SCAPICCHIO: What facility did he work at?

3 THE JUROR: I think he's at Bridgewater now.

4 MS. SCAPICCHIO: How long has he worked for the  
5 DOC?

6 THE JUROR: It's got to be over 20 years.

7 MS. SCAPICCHIO: And in terms of this case, if the  
8 evidence supported the fact that the defendants  
9 Detective Walsh and Detective Callahan violated  
10 Shawn Drumgold's civil rights and that violation led to his  
11 wrongful conviction, would you have any concerns in terms of  
12 awarding damages if you knew that Shawn Drumgold had a  
13 criminal past?

14 THE JUROR: No, because this is about one thing,  
15 not the other stuff.

16 MS. SCAPICCHIO: And in the same vain, if the  
17 evidence supported the fact that Detective Walsh and  
18 Detective Callahan violated Shawn Drumgold's civil rights  
19 and that violation led to his wrongful conviction, would you  
20 have any concerns awarding damages if you knew that  
21 Shawn Drumgold had a drug history?

22 THE JUROR: No. It doesn't have anything to do  
23 with it.

24 MS. SCAPICCHIO: Excuse me one second. Would you  
25 tend to believe the testimony of a police officer over that

1 of a civilian witness?

2 THE JUROR: I don't know. I never had to. Now  
3 you're going to reputation, comparing reputation to  
4 somebody.

5 MS. SCAPICCHIO: Would the fact that police  
6 officers had training and experience cause you to lean in  
7 their direction if you had to make a choice between a  
8 civilian and a police officer?

9 THE JUROR: I'd have to go by who I believe.

10 MS. SCAPICCHIO: Thank you.

11 THE COURT: You have to go by what?

12 THE JUROR: Who I believe.

13 MS. HARRIS: Good morning, sir. I'm Mary Jo  
14 Harris and myself and these other attorneys represent the  
15 defendant officers in this case. Following up on the point  
16 you just touched upon, if you sat on this jury and you had a  
17 police officer give you a version of events and that version  
18 of events was contradicted by a civilian witness, is it your  
19 testimony that you would have to assess both of them and  
20 then determine who to believe?

21 THE JUROR: Yeah.

22 MS. HARRIS: In other words, the fact that the  
23 police officer -- the job of the police officer would not  
24 automatically cause you to credit him over somebody else?

25 THE JUROR: No.

1 MS. HARRIS: No, it wouldn't cause you to credit  
2 him?

3 THE JUROR: No, because there has to be more to  
4 it.

5 MS. HARRIS: You also indicated in your  
6 questionnaire that unfortunately your parents had  
7 experienced crime, your parents' house was robbed and your  
8 mother had her purse snatched. Would those events cause you  
9 to bring any bias or prejudice to this case?

10 THE JUROR: No.

11 MS. HARRIS: The facts that they had been victims  
12 of crime?

13 THE JUROR: No.

14 MS. HARRIS: You mentioned your great uncle was in  
15 staff inspection. Who was your great uncle?

16 THE JUROR: Paul Weare.

17 MS. HARRIS: How long ago did he leave?

18 THE JUROR: A long time ago.

19 MS. HARRIS: Were you a child?

20 THE JUROR: My 20's.

21 MS. HARRIS: Did you have any substantive  
22 conversations with him about his work or anything else like  
23 that?

24 THE JUROR: Sure, when I was kid, always wanted to  
25 know what he did.

1 MS. HARRIS: Do you have any recollection of  
2 anything that he may have told you about work?

3 THE JUROR: Not really. It's just he wouldn't go  
4 into specifics or anything.

5 MR. CURRAN: Sir, you understand that there's two  
6 sides to every story and the plaintiff gets to put his case  
7 on first and then the defendants have a chance to respond  
8 and put on their case?

9 THE JUROR: Yes.

10 MR. CURRAN: You understand that you're prepared  
11 to wait and listen to all the evidence and weigh all the  
12 evidence, the credibility of each witness before you make  
13 any decision?

14 THE JUROR: Yes.

15 MR. CURRAN: Thank you, sir.

16 THE COURT: Okay. I'm going to ask you to call  
17 this number after 6:00 tonight, and you need your juror  
18 number, it's the number that was on your summons, and  
19 they'll let you know whether you're on the final jury.  
20 Thank you very much, Mr. Butler. Mr. Higgins. The lawyers  
21 will question you five minutes.

22 MR. WHITE: Good morning, sir. My name is  
23 William White, along with Mary Jo Harris, Hugh Curran, and  
24 John Roache, we represent the two detectives,  
25 Timothy Callahan and Richard Walsh in this particular

1 lawsuit. Just to tell you a little more than perhaps you  
2 have heard, this case stems from a 1988 shooting of a  
3 12 year-old girl by the name of Darlene Tiffany Moore. She  
4 sat on a mailbox in the Roxbury section of Boston. Having  
5 told you that, does that spur any recall from you?

6 THE JUROR: I think I remember a little bit about  
7 the case.

8 MR. WHITE: Do you remember something from the  
9 case from back in 1988 or something more recent that you  
10 heard?

11 THE JUROR: I think the last thing I remembered  
12 was the defendant was released from jail because he was  
13 wrongly accused.

14 MR. WHITE: So something more recent, that's what  
15 triggered your memory?

16 THE JUROR: Yes, when I saw the sheet I was given,  
17 I recollected the name on there.

18 MR. WHITE: In 1988 after the murder of  
19 Tiffany Moore, there was a police investigation, and that  
20 investigation led to the arrest and ultimately the  
21 prosecution and conviction of Shawn Drumgold. In this case  
22 you're going to be hearing from a number of witnesses  
23 including police officers and civilian witnesses.

24 Let me first ask you, have you ever had any  
25 individual contact with a police officer?



1           THE JUROR: With a police officer, I have a friend  
2 who's a state police officer, and I have my uncle was a  
3 detective.

4           MR. WHITE: Your uncle who's a detective, in what  
5 police department?

6           THE JUROR: Milton.

7           MR. WHITE: Your close friend?

8           THE JUROR: He's actually my brother's close  
9 friend. He grew up in the neighborhood so I know him.

10          MR. WHITE: Having your uncle and your brother's  
11 friend, do you have discussions at all with either of those  
12 individuals about police business?

13          THE JUROR: Not really, no.

14          MR. WHITE: Would the fact that an individual who  
15 was a nonpolice officer testified in a case in which a  
16 police officer testified cause you to believe either the  
17 police officer or the nonpolice officer more than the other?

18          THE JUROR: I don't think so.

19          MS. HARRIS: Jumping in, good morning, I'm  
20 Mary Jo Harris. I also represent some of the defendant  
21 officers. I think you said a moment ago that you were  
22 familiar with the names Tiffany Moore, Shawn Drumgold, and  
23 you had a recollection that Mr. Drumgold was released  
24 because he had been wrongfully accused. Can you tell us a  
25 little bit more about what you remember?

1 THE JUROR: I just think what I recall was he was  
2 released after spending a lot of time in prison, but I don't  
3 recall the details of why that occurred, just that he had  
4 been released.

5 MS. HARRIS: And is it your sense that his release  
6 was the result of a finding that he had been wronged in some  
7 way?

8 THE JUROR: I don't recall the details of why he  
9 was released, I just recalled the fact that he had spent  
10 some time in prison and was released.

11 MR. CURRAN: The fact that he was released, does  
12 that impact your ability to be fair and impartial and listen  
13 to all the evidence in this case?

14 THE JUROR: I don't think so. I don't have enough  
15 recollection of the details to, you know, think one way or  
16 the other.

17 MR. CURRAN: So you're prepared to hear the facts  
18 that there's two sides to every story?

19 THE JUROR: I think so.

20 MR. CURRAN: The plaintiffs put on their case and  
21 the defendants have a chance to respond, you're willing to  
22 listen to the evidence and make decisions that these are  
23 mere allegations and not any facts until you decide the  
24 facts? Do you understand that?

25 THE JUROR: Yeah, I think so, yeah.

1 MR. CURRAN: Is there anything about that that  
2 gives you any hesitation, anything you read in the papers or  
3 heard on the news in regards to your ability to evaluate all  
4 the evidence in this case?

5 THE JUROR: I don't believe so.

6 MR. CURRAN: Okay. Thank you, sir.

7 THE JUROR: You're welcome.

8 THE COURT: Ms. Scapicchio.

9 MS. SCAPICCHIO: Thank you, your Honor. Hi, I'm  
10 Rose Scapicchio. This is Michael Reilly, and we represent  
11 Shawn Drumgold. I have a few more questions if you don't  
12 mind.

13 THE JUROR: Sure.

14 MS. SCAPICCHIO: Some people think that the role  
15 that police officers play in society is so important that  
16 they should not be sued for anything that happens while  
17 they're on duty. Do you agree with that?

18 THE JUROR: No, I don't think they're above the  
19 law if they do something wrong.

20 MS. SCAPICCHIO: Okay. In this case, if the  
21 evidence supported the fact that Detective Walsh and  
22 Detective Callahan violated Shawn Drumgold's civil rights  
23 and that violation led to his wrongful conviction, would you  
24 have any concerns awarding damages if you knew that  
25 Shawn Drumgold had a drug history?

1 THE JUROR: Probably not if it wasn't related to  
2 the issue at hand.

3 MR. WHITE: Okay. In the same vain, if the  
4 evidence supported the fact that Detective Walsh and  
5 Detective Callahan violated Shawn Drumgold's rights and that  
6 violation led to his wrongful conviction, would you have any  
7 concerns awarding damages if you knew that Shawn had been  
8 arrested and convicted in the past?

9 THE JUROR: I don't think so. I would hope not.

10 MS. SCAPICCHIO: Do you have any concerns at all  
11 about that? Is there some reason you're hesitating?

12 THE JUROR: No. I think I'd be able to separate  
13 the two issues.

14 MS. SCAPICCHIO: Great. Thank you very much. I  
15 don't have anything further, your Honor.

16 THE COURT: Okay. I'm going to give you a number  
17 to call today at 6:00. You need your juror number, which is  
18 on the summons, and that will let you know if you're going  
19 to be a final juror in which case we'll see you tomorrow  
20 morning. Thank you very much.

21 MS. SCAPICCHIO: Thank you.

22 MS. HARRIS: Thank you.

23 MR. WHITE: I'll tell your Honor that the next  
24 juror on question 5 indicated that she had depression and  
25 that she had --

1 MS. HARRIS: She's got a brand new baby and  
2 questions about being --

3 THE COURT: How old is her baby?

4 MS. HARRIS: 18 months. She was asked about her  
5 ability, and she said her daughter eats and sleeps.

6 MS. SCAPICCHIO: Eating, sleeping, et cetera.  
7 That's No. 15, her answer to No. 15. Her child's occupation  
8 is eating and sleeping. I think she adds some flavor to the  
9 jury, what do you think?

10 THE COURT: She said if she got depression would  
11 be a problem but it could make things difficult because it  
12 comes and go.

13 Hi, how are you?

14 THE JUROR: Good. How are you?

15 THE COURT: Okay. This is Wendy Rosko.

16 MS. SCAPICCHIO: Good morning.

17 THE COURT: In reading your questionnaire, you  
18 have an 18 year-old. I love your comment. What does she  
19 do, eats and sleeps. I understand that.

20 THE JUROR: That's her occupation.

21 THE COURT: That's good. I just want to make sure  
22 that everything is okay with you serving. You indicated you  
23 had some problem with depression, you're on medication?

24 THE JUROR: Yeah.

25 THE COURT: Do you think that would be okay?

1           THE JUROR: I think I haven't had any problem, I  
2 get anxiety doing new things like stress.

3           THE COURT: This shouldn't be stressful.

4           THE JUROR: Oh, okay.

5           THE COURT: It's stressful for them, it shouldn't  
6 be stressful for you. You're the best judge of whether you  
7 think you can handle this. Do you think you're fine at  
8 handling it?

9           THE JUROR: Yes.

10          THE COURT: And you said there was something in  
11 here about not wanting to be away from your child. We're  
12 going to go 9 to 1, so you'd be back in the afternoon.  
13 Would there be any problem?

14          THE JUROR: No, I usually come back from Cambridge  
15 on the 5:00 train anyway.

16          THE COURT: Beside, you know, you'll get a break,  
17 right? This is not a bad thing.

18          THE JUROR: The only thing, I don't know if your  
19 job is to pay you.

20          THE COURT: Your job is supposed to pay you. If  
21 there's a problem, you need to let us know. We left off  
22 here, Ms. Scapicchio, five minutes.

23          MS. SCAPICCHIO: Hi, I'm Rose Scapicchio. This is  
24 Mike Reilly. We represent Shawn Drumgold in this case, and  
25 we wanted to ask you a few questions to find out if you had

1 any outside knowledge of this case before we start  
2 presenting the facts, and let me tell you a little bit about  
3 the case. This case is a case that started back in 1988,  
4 August of 1988 when a little girl by the name of Darlene  
5 Moore, Tiffany Moore, was shot and killed as she sat on a  
6 mailbox. The police arrested my client, Shawn Drumgold. He  
7 was tried and convicted. He was sentenced to life in  
8 prison. He spent 15 years in jail and then filed a motion  
9 for a new trial and was freed. Do the facts of this case  
10 ring any bells to you? Do you know the name Shawn Drumgold  
11 or Tiffany Moore or anything about the case?

12 THE JUROR: The Tiffany Moore, today and when they  
13 just discussed it briefly to us, it rang a bell, but I  
14 couldn't put it all together. It was a long time ago. I  
15 think I remember that, but I don't really know much about it  
16 beside it rang a bell.

17 MS. SCAPICCHIO: Were you living in Boston back in  
18 1988?

19 THE JUROR: No, I moved to Somerville in 1990, but  
20 I live in Maynard, I keep saying Hudson, but I live in  
21 Maynard now.

22 MS. SCAPICCHIO: And would you tend to believe the  
23 testimony of a police officer over that of a civilian  
24 witness because of his or her position as a police officer?

25 THE JUROR: Well, it would depend on a lot of

1 things.

2 MS. SCAPICCHIO: What types of things would it  
3 depend on?

4 THE JUROR: He said, she said.

5 MS. SCAPICCHIO: You'd listen to the evidence?

6 THE JUROR: Not because they're a police  
7 officer.

8 MS. SCAPICCHIO: So you'd listen to the evidence  
9 and then you'd weigh each side and make a decision?

10 THE JUROR: Yes.

11 MS. SCAPICCHIO: Some people think that the role  
12 police play in our society is so important that they should  
13 never be sued in their official capacity while they're on  
14 duty. Do you agree with that?

15 THE JUROR: No.

16 MS. SCAPICCHIO: And in this case if the evidence  
17 supported the fact that Detective Walsh and Detective  
18 Callahan violated Shawn Drumgold's civil rights and that  
19 violation led to his wrongful conviction, would you have any  
20 concerns of awarding damages if you knew Shawn Drumgold had  
21 criminal convictions in the past?

22 THE JUROR: That could make a difference depending  
23 on what they were.

24 MS. SCAPICCHIO: Okay. What would cause you some  
25 concern in terms of awarding damages? What types of crimes



1 would cause you concern in terms of awarding damages?

2 THE JUROR: Just murder.

3 MS. SCAPICCHIO: Okay. Drug offenses, would they  
4 concern you?

5 THE JUROR: No.

6 MS. SCAPICCHIO: Offenses involving firearms,  
7 would they concern you?

8 THE JUROR: Maybe, yeah.

9 MS. SCAPICCHIO: Okay. What would concern you  
10 about that?

11 THE JUROR: Well, I mean, you're using a firearm  
12 that's pretty dangerous.

13 MS. SCAPICCHIO: Okay. That would come into your  
14 consciousness in terms of whether or not you would award  
15 damages in this case?

16 THE JUROR: Well, it doesn't have anything to do  
17 with the case, but it's like it's hard to answer these  
18 questions without everything put in front of me because you  
19 need more to think of than just the basic if you did this.

20 MS. SCAPICCHIO: So you would listen to the  
21 evidence?

22 THE JUROR: Yes.

23 MS. SCAPICCHIO: And try to make a determination  
24 based on what you heard?

25 THE JUROR: Yes.

1 MS. SCAPICCHIO: Okay. And would it make any  
2 difference to you if you knew that Shawn Drumgold had some  
3 drug history?

4 THE JUROR: No.

5 MS. SCAPICCHIO: I don't have anything further  
6 questions, your Honor, thank you. Thank you.

7 THE JUROR: Thank you.

8 MS. HARRIS: Good morning, I'm Mary Jo Harris, and  
9 along with these gentlemen, we represent the detectives in  
10 this case, Detective Walsh and Detective Callahan. I  
11 noticed from your questionnaire that you've served on a jury  
12 before?

13 THE JUROR: Yes.

14 MS. HARRIS: Can you tell us a little bit about  
15 that experience?

16 THE JUROR: It was in Cambridge probably at least  
17 five years ago.

18 MS. HARRIS: And it was a civil case, I  
19 understand?

20 THE JUROR: Yes.

21 MS. HARRIS: What kind of case was it?

22 THE JUROR: It was a drunk driving case.

23 MS. HARRIS: Were there injuries in that case?

24 THE JUROR: No.

25 MS. HARRIS: And it went to a verdict, I

1 understand from your questionnaire?

2 THE JUROR: Yes.

3 MS. HARRIS: How did you experience being on the  
4 jury? Did you like it? Did you dislike it? Was it what  
5 you expected?

6 THE JUROR: It was different from what I expected.  
7 I liked it. I learned something.

8 MS. HARRIS: In what way was it different?

9 THE JUROR: Well, I didn't know it would be so  
10 quick. It was just a two-day case, and I expected, you  
11 know.

12 MS. HARRIS: Surprise, this is not that case.

13 THE JUROR: No, not at all, but I was really  
14 surprised something could be resolved and not everybody on  
15 the jury agreed. I thought it would take longer for people  
16 to agree.

17 MS. HARRIS: And was your experience of that a  
18 fair process?

19 THE JUROR: Yes.

20 MS. HARRIS: The case as we have explained is  
21 related to the murder of a child, and does that, do those  
22 facts cause you any concern about being able to sit on this  
23 jury to know that a child was killed?

24 THE JUROR: It's very disturbing.

25 MS. HARRIS: Would it be something that would

1       impede your ability to sit as a juror on the case do you  
2       think?

3               THE JUROR: I don't think so.

4               MS. HARRIS: Some of my colleagues might have more  
5       questions.

6               MR. CURRAN: My name is Hugh Curran. I represent  
7       Richard Walsh. Excuse my voice, I'm trying to get over the  
8       flu before we start. You indicated your husband has had  
9       some contact with law enforcement. That aspect, knowing  
10      that, will that impede your ability to give a fair  
11      assessment of the evidence to Richard Walsh and  
12      Timothy Callahan who are retired police officers?

13              THE JUROR: No, because that happened before we  
14      even started dating, and he deserved what he got.

15              THE COURT: We'll seal that part of the record.

16              MR. CURRAN: We won't tell him that part of it.  
17      The other aspect you indicated that new experiences  
18      sometimes cause you stress?

19              THE JUROR: Yes.

20              MR. CURRAN: Obviously you've had some jury  
21      experience, but this is going to be a lot different than  
22      sitting on a drunk driving case.

23              THE JUROR: Right.

24              MR. CURRAN: As a result, there are going to be a  
25      lot of facts about any violence and gang violence in the

1 City of Boston back in 1988 and the murder of a young girl.  
2 Is that going to impede your ability to cause or any stress  
3 because of the factual nature of this case vs. the other  
4 case you sat on? I understand you're comfortable with the  
5 process.

6 THE JUROR: Yeah, I'm comfortable with the  
7 process, but when a child is involved and murdered, me just  
8 becoming a mother a year and a half ago kind of it's very  
9 disturbing, but, you know, I would never say that it's not  
10 disturbing and stressful to think about those things.

11 MR. CURRAN: Well, for your health it's not going  
12 to cause a problem you don't think?

13 THE JUROR: No.

14 MR. CURRAN: Fair, thank you very much.

15 MR. WHITE: Could I ask --

16 THE COURT: Just ask one question. You have two  
17 minutes, one second rather.

18 MR. WHITE: You understand that the plaintiff goes  
19 first and the defendant goes second. You will keep an open  
20 mind until you've heard all of the evidence in the process?

21 THE JUROR: Yes.

22 MR. WHITE: Thank you very much.

23 THE COURT: Fabulous question. If you can call  
24 this number at 6:00.

25 THE JUROR: Okay.

1           THE COURT: After 6:00 today, you have your juror  
2 number with you, and we'll let you know whether you're on  
3 the final jury.

4           THE JUROR: Okay. What is my juror number?

5           THE COURT: On the summons. Right. No problem.  
6 Okay.

7           MS. HARRIS: He also said he has been convicted of  
8 homicide.

9           MR. WHITE: Negligent homicide.

10          MS. HARRIS: Not having the wealth of the  
11 experience of all other colleagues here.

12          THE COURT: Hi.

13          THE JUROR: Hi.

14          THE COURT: You're --

15          THE JUROR: James Vizakis, this is juror No. 52.

16          MR. WHITE: If I directed your Honor's attention  
17 to question 30 or answer 30.

18          THE COURT: Is there any reason you'd like to be a  
19 juror or not like to be a juror, and you said you don't want  
20 to be a juror. Aside from the general sense that this is  
21 not the most fun thing to do in the world, is there any  
22 problems you serving?

23          THE JUROR: Yeah, my job, even though I've been at  
24 my job for 12 years, I moved to a different -- doing  
25 something different.

1 THE COURT: Right.

2 THE JUROR: I've even got a few days I've been  
3 out, they call before I come here and just asking questions  
4 about where I left not as much as where I'm going.

5 THE COURT: Would your job be in jeopardy if you  
6 were on this?

7 THE JUROR: No, but, you know.

8 THE COURT: It's a pain?

9 THE JUROR: Yes.

10 THE COURT: I understand. We have to go above  
11 that in order to disqualify, but if there's any problem with  
12 your job in terms of continuing to pay you or any issues  
13 with your employer, let us know because they're not supposed  
14 to do it.

15 THE JUROR: I can do it but 5:30 or 6:00 we're  
16 still on here, this, and that.

17 THE COURT: Okay.

18 MS. SCAPICCHIO: Your Honor, could you also ask  
19 about question 27?

20 THE COURT: 27, just one second here. You  
21 indicated that you oppose a lawsuit by people who have been  
22 wrongfully convicted. You understand that that's what this  
23 is about, this is an allegation of a wrongful conviction and  
24 a lawsuit against the individuals who were allegedly  
25 responsible for that, so you indicated you oppose those kind

1 of lawsuits. Would that make it hard for you to serve as a  
2 juror on this case?

3 THE JUROR: Possibly, yeah.

4 THE COURT: You think that the plaintiff didn't  
5 have a right to bring the case? In other words, is it the  
6 kind of thing where you're going to say I don't think the  
7 plaintiff had a right to bring this case or whether you're  
8 going to say let me look at the facts?

9 THE JUROR: Oh, you have to look at the facts.  
10 Maybe I misunderstood the question.

11 THE COURT: Okay. So generally you'd oppose it  
12 because there would be facts that you might believe that  
13 would be justified?

14 THE JUROR: Yeah.

15 THE COURT: Go on.

16 MS. SCAPICCHIO: I just want to follow up on what  
17 Judge Gertner asked you regarding your answer to question  
18 No. 27. When you checked the box that said you opposed  
19 these type of lawsuits when wrongly convicted individuals  
20 bring lawsuits against the police department, can you tell  
21 us a little bit about what went through your mind when you  
22 checked that? Why check oppose as opposed to favor?

23 THE JUROR: Well, then again, I don't remember the  
24 question, to be honest with you.

25 MS. SCAPICCHIO: Sure. The question is people who



1 have been wrongly convicted sometimes bring lawsuits against  
2 the police department. Do you favor or oppose this type of  
3 lawsuit? You checked opposed?

4 THE JUROR: Yeah, I do oppose, yeah.

5 MS. SCAPICCHIO: Would it make it difficult for  
6 you to serve on a trial like this?

7 THE JUROR: Yeah.

8 THE COURT: Okay. I'm going to disqualify you, so  
9 tell your company you're back.

10 THE JUROR: Okay.

11 THE COURT: Thank you very much.

12 MR. WHITE: Thank you.

13 Is Mr. Scholz out of the --

14 THE COURT: Somewhere Scholz did not show up. I'm  
15 not sure what the issue is, but it was flagged for me, his  
16 questionnaire was flagged for me because of the felony  
17 conviction. The felony conviction is more than seven years  
18 old, it doesn't matter, he's in this pool.

19 MS. SCAPICCHIO: What happens to federal jurors  
20 that don't show up, anything?

21 MR. CURRAN: He's a disabled vet.

22 THE COURT: Technically we're supposed to subpoena  
23 him for the next pool, so that's technically, and  
24 technically if they don't show up, they're subject to  
25 prosecution. The next juror, Ms. Crowley.

1 THE JUROR: Good morning.

2 THE COURT: Hi. This is Ms. Crowley, and I've  
3 forgotten whose turn it is. I think it's your turn to  
4 start.

5 MS. SCAPICCHIO: I just finished.

6 THE COURT: So you start.

7 MS. SCAPICCHIO: Do you want to start?

8 MS. HARRIS: I don't care.

9 MS. SCAPICCHIO: Hi, I'm Rose Scapicchio. This is  
10 Michael Reilly, and we represent Shawn Drumgold. I'm going  
11 to ask you a few questions just to see if you have any  
12 outside knowledge of this case. This case was actually  
13 started in 1988, in August of 1988 when a little girl by the  
14 name of Darlene Tiffany Moore was shot and killed as she sat  
15 on a mailbox. My client, Shawn Drumgold, was arrested,  
16 tried and convicted of the murder of Tiffany Moore. He was  
17 sentenced to life in prison, and 15 years later he filed a  
18 motion for a new trial and he was released. Do the facts of  
19 this case ring a bell at all to you?

20 THE JUROR: I can't say they do, no, that's an  
21 awfully long time ago.

22 MS. SCAPICCHIO: Does the name Shawn Drumgold or  
23 Tiffany Moore ring a bell to you?

24 THE JUROR: No.

25 MS. SCAPICCHIO: Do you remember reading anything

1 or hearing anything about Shawn Drumgold or Tiffany Moore?

2 THE JUROR: No.

3 MS. SCAPICCHIO: Some people think that the role  
4 that police officers play in society is so important that  
5 they should never be sued in their official capacity. Do  
6 you agree with that?

7 THE JUROR: No, I do not.

8 MS. SCAPICCHIO: In this particular case would you  
9 tend to believe the testimony of a police officer over that  
10 of a civilian witness merely because of his or her position  
11 as a police officer?

12 THE JUROR: No, I would not.

13 MS. SCAPICCHIO: In this case if the evidence  
14 supported the fact that the defendants, Detective Walsh and  
15 Detective Callahan, violated Shawn Drumgold's civil rights  
16 and that violation led to his wrongful conviction, would you  
17 have any concerns awarding damages if you knew that Shawn  
18 had a drug history?

19 THE JUROR: No, I would not.

20 MS. SCAPICCHIO: And in this case again if the  
21 evidence supported the fact that Detective Walsh and  
22 Detective Callahan violated Shawn Drumgold's civil rights  
23 and that violation led to his wrongful conviction, would you  
24 have any concerns awarding damages if you knew that Shawn  
25 had a criminal past?

1 THE JUROR: No, I would not.

2 MS. SCAPICCHIO: I don't have any further  
3 questions, thank you.

4 THE COURT: One more round.

5 MS. HARRIS: Hi, I'm Mary Jo Harris, and with  
6 these other gentlemen, we represent Detectives Callahan and  
7 Walsh who are with us here today. The points of having a  
8 trial, of course, is that there's two sides to every story,  
9 and you understand that, I assume?

10 THE JUROR: I do.

11 MS. HARRIS: And following up a little bit on  
12 Ms. Scapicchio's questions, would you tend to disbelieve a  
13 police officer if the civilian contradicted the police  
14 officer.

15 THE JUROR: No, I would not.

16 MS. HARRIS: So I'm understanding that you would  
17 say you would listen to the evidence and make your  
18 determinations based on how these people testified and your  
19 judgments about the credibility?

20 THE JUROR: Absolutely.

21 MS. HARRIS: Is that fair to say?

22 THE JUROR: Absolutely.

23 MS. HARRIS: I understand that you're in school  
24 seeking a nursing degree; is that right?

25 THE JUROR: I'm a nurse, but I'm seeking a higher

1 level of education.

2 MS. HARRIS: I'm sorry, what is it you're going  
3 for?

4 THE JUROR: My baccalaureate in nursing, I have a  
5 an associates degree.

6 MS. HARRIS: Would the case interfere with your  
7 schooling in any way?

8 THE JUROR: No. I'm doing school online. I have  
9 access.

10 MR. CURRAN: I don't have any questions.

11 MR. ROACHE: No.

12 THE COURT: Okay. I'm going to ask you to call  
13 this number after six today.

14 THE COURT: Okay. You need your juror number,  
15 which is on the summons, and you'll use that, they'll let  
16 you know who's going to be on the final jury. If you're on  
17 the final jury, then I need to see you tomorrow at 6:00.  
18 Don't Google this case, don't try to find out anything about  
19 this case until we see you tomorrow morning. Thank you.

20 MR. WHITE: Thank you.

21 MS. SCAPICCHIO: Thank you. Enthusiastic juror, I  
22 would find it interesting to serve on a case.

23 THE COURT: Good.

24 MR. McALEAR: Your Honor, I just got a phone call  
25 from juror No. 50, Mr. Scholz. He has no better excuse

1 other than he forgot, so I said okay, Mr. Scholz, let me go  
2 up and tell the Court and I will give you further  
3 instruction.

4 THE COURT: Well, it does seem to me he should be  
5 here. I'm not sure that we need him. We may very well make  
6 it from this pool without going any further. You know what,  
7 actually let's not have him come in this week. Have him  
8 come in next week because, Jim, his conviction was in 1980,  
9 he's not disqualified. Okay. Take that back. He may not  
10 be selected, but he's certainly not disqualified. The next  
11 person is Murphy. Hi.

12 THE JUROR: Hello.

13 MR. WHITE: Good morning, Ms. Murphy.

14 THE JUROR: Good morning.

15 MR. WHITE: My name is William White, and along  
16 with Mary Jo Harris, Hugh Curran and John Roache, we  
17 represent the individuals back here, Timothy Callahan and  
18 Richard Walsh in this particular lawsuit. This case  
19 concerns the 1988 shooting of a 12 year-old little girl by  
20 the name of Darlene Tiffany Moore as she sat on a mailbox in  
21 the Roxbury section of Boston. Does that ring any bells  
22 with you?

23 THE JUROR: Vaguely I remember. I might have  
24 heard something in the news about it.

25 MR. WHITE: Do you remember if your recall is from

1 back in 1988 or if you heard something more recent about it?

2 THE JUROR: I don't know.

3 MR. WHITE: After the murder of Darlene  
4 Tiffany Moore, there was a police investigation that led to  
5 the arrest of Shawn Drumgold. He was arrested and  
6 prosecuted for the murder of Darlene Tiffany Moore. Does  
7 that ring any bells?

8 THE JUROR: Yes.

9 MR. WHITE: Does it sound familiar from something  
10 recent or does it sound something from long ago?

11 THE JUROR: I think it sounds something more  
12 recent.

13 MR. WHITE: You mentioned in your questionnaire  
14 that you read, you get your sources of news from the TV and  
15 newspapers. Do you regularly read The Boston Globe or  
16 The Boston Herald?

17 THE JUROR: No.

18 MR. WHITE: In 1988, were you living in the Boston  
19 area?

20 THE JUROR: I was living in Malden.

21 MR. WHITE: You were living in Malden. When you  
22 lived in the Malden area, did you regularly read the  
23 newspapers?

24 THE JUROR: I don't think so, no, because I was  
25 working a distance from there.

1 MR. WHITE: When you say you were working a  
2 distance, were you working further north?

3 THE JUROR: The western suburbs in Natick.

4 MR. WHITE: When this case goes to trial, you  
5 know, which we're a part of right now, you're going to hear  
6 from witnesses who are police officers and civilians. Does  
7 the fact that a police officer testify give you any cause to  
8 evaluate that testimony above the testimony of a civilian  
9 witness?

10 THE JUROR: When I look at things -- I'm on a  
11 school committee, and when I look at things, I try to look  
12 and not be judgmental, I try to see all sides of anything  
13 that I look at. It's just something I do.

14 MR. WHITE: So if I understand you, you're saying  
15 that where police officers and civilian witnesses testify,  
16 you're going to keep an open mind?

17 THE JUROR: Uh-hum.

18 MR. WHITE: Is that right?

19 THE JUROR: Uh-hum.

20 MR. WHITE: In this case, the plaintiff goes first  
21 and then the defendants have an opportunity to present their  
22 side. Would you keep an open mind until you heard both  
23 sides?

24 THE JUROR: Uh-hum.

25 MR. WHITE: I think that's what you're telling me,



1       that's your experience in the school system?

2               THE JUROR: Right.

3               MR. WHITE: Are you member of the school committee  
4 or a you a member of -- let me ask you that.

5               THE JUROR: I'm a member of the school  
6 committee.

7               MR. WHITE: If I could have just a moment. I  
8 don't think I have anything.

9               MS. HARRIS: Could I go if I have time left?

10              THE COURT: Yes.

11              MS. HARRIS: When you say the name Shawn Drumgold  
12 is familiar to you, can you tell me what you associate with  
13 that name?

14              THE JUROR: Just in hearing it on the news, that's  
15 all.

16              MS. HARRIS: Do you have a recollection what it is  
17 you heard, what the story is or --

18              THE JUROR: Not details of it, no.

19              MS. HARRIS: Anything at all other than knowing  
20 that the name is familiar?

21              THE JUROR: Right. Probably hearing it in the  
22 media over and over.

23              MS. HARRIS: In your questionnaire, you indicated  
24 that you thought this might be an interesting case to sit  
25 on, and I'm wondering --

1 THE JUROR: Just in general I think it would be  
2 interesting.

3 MS. HARRIS: Okay.

4 MR. CURRAN: The fact that you've heard  
5 Shawn Drumgold's name, does that force you or cause you to  
6 reach any conclusions before you heard any of the evidence  
7 in this case?

8 THE JUROR: No.

9 MR. CURRAN: And the school committee position, is  
10 that an elected position?

11 THE JUROR: It's an elected position.

12 MS. HARRIS: How many terms have you served?

13 THE JUROR: I'm still on my first term, finishing  
14 the second of a three-year term.

15 MR. CURRAN: Is that in Rowley?

16 THE JUROR: It's for the Triton District which I  
17 represent the Town of Rowley.

18 MR. CURRAN: Thank you.

19 THE COURT: I'll ask you to call this number.

20 MS. SCAPICCHIO: Could I ask you a few? Hi, I'm  
21 Rose Scapicchio, this is Michael Reilly. We represent  
22 Shawn Drumgold. He's the plaintiff in this case. I had a  
23 few follow-up questions what the defense attorneys asked  
24 you. You indicated you were a member of the school  
25 committee. Have you ever been named as a defendant, as a

1 member of the school committee?

2 THE JUROR: No.

3 MS. SCAPICCHIO: I also notice from your  
4 questionnaire that your spouse is a fire chief?

5 THE JUROR: Uh-hum.

6 MS. SCAPICCHIO: Where is that?

7 THE JUROR: In Malden.

8 MS. SCAPICCHIO: Has he ever been sued as a fire  
9 chief? Has he been named as a defendant in any suit?

10 THE JUROR: No, not that I know of.

11 MS. SCAPICCHIO: Would his position as a fire  
12 chief, does he interact with the police often?

13 THE JUROR: I would imagine so, yes.

14 MS. SCAPICCHIO: Would that interaction, do you  
15 discuss what happens with him on the job, things of that  
16 nature?

17 THE JUROR: Just little things but nothing that  
18 involves, you know, to that extent of, you know, just little  
19 personnel quirks or something, that's really all.

20 MS. SCAPICCHIO: Would that interaction with the  
21 police, would that tend to make you believe police officers  
22 more than civilian witnesses because of your husband's  
23 position and interaction?

24 THE JUROR: I don't think so, no.

25 MS. SCAPICCHIO: Now, in this case some people

1 believe that the job that police officers do is important,  
2 that they should never be sued for anything that happens in  
3 their official capacity. Do you agree with that?

4 THE JUROR: I haven't really thought of that. I  
5 suppose mistakes, everybody is human, and mistakes can be  
6 made, so I think you could, I think everybody has rights,  
7 and they should be able to sue if they need to.

8 MS. SCAPICCHIO: Thank you. In this case if the  
9 evidence suggested that Detective Walsh and Detective  
10 Callahan violated Shawn Drumgold's civil rights and that  
11 violation led to his wrongful conviction, would you have any  
12 concerns awarding damages if you knew that Shawn had a drug  
13 problem?

14 THE JUROR: I might have concerns.

15 MS. SCAPICCHIO: And what would concern you about  
16 that?

17 THE JUROR: Drugs I think just don't put you in  
18 the right frame of mind.

19 MS. SCAPICCHIO: So you'd have some concerns that  
20 would prevent you from awarding damages if you knew that  
21 Shawn had a drug problem?

22 THE JUROR: I might, yes.

23 MS. SCAPICCHIO: It would.

24 THE COURT: I would instruct you his having a drug  
25 problem would have nothing to do with the award of damages

1 in this case. Could you follow those instructions?

2 THE JUROR: Yes.

3 THE COURT: In other words, the issue of damages  
4 in this case would be unrelated to drug problems, prior  
5 convictions if you found damages to be appropriate. Do you  
6 think you could do that notwithstanding your feelings about  
7 drugs?

8 THE JUROR: Yes, I think I could take instructions  
9 that way.

10 THE COURT: Go on.

11 MS. SCAPICCHIO: If the evidence supported the  
12 fact that Detective Walsh and Detective Callahan violated  
13 Shawn Drumgold's civil rights and that violation led to his  
14 wrongful conviction, would you have any concerns about  
15 awarding damages if you knew that Shawn had a criminal  
16 history, in other words, he had been convicted of other  
17 crimes?

18 THE JUROR: No.

19 MS. SCAPICCHIO: Excuse me one second. I have  
20 nothing further. Thank you.

21 THE COURT: Okay. Now, this is a number for you  
22 to call. Use your juror number, and you'll know from that  
23 call whether or not you're on the final jury in this case  
24 which we'll see you in the morning. Don't research this  
25 case, don't find out anything about it, okay. Thank you

1       very much.

2               MR. WHITE:   Thank you.

3               THE COURT:   Mr. Richards.

4               THE JUROR:   Yes.

5               THE COURT:   Hi.

6               MS. SCAPICCHIO:   Good morning, Mr. Richards.   My  
7       name is Rose Scapicchio.   This is Michael Reilly.   We  
8       represent Shawn Drumgold.   He's the plaintiff in this case.  
9       I want to give you a little bit of information about the  
10      case to find out if you have any knowledge outside of what  
11      you might learn as a juror.   This case actually stems from  
12      an incident that took place in 1988 when a little girl by  
13      the name of Darlene Tiffany Moore was shot and killed as she  
14      sat on a mailbox in Roxbury.   The police arrested my client,  
15      Shawn Drumgold.   He was tried and convicted, he was found  
16      guilty of the murder of Tiffany Moore and sentenced to life  
17      in prison.   After 15 years, he filed a motion for a new  
18      trial and was released.   Do you remember reading, seeing,  
19      hearing, anything about this case?

20              THE JUROR:   I read the newspaper a lot, but I'm  
21      trying to think if I've read anything about this one or seen  
22      it on the news or anything, this particular one.   I mean,  
23      I've heard quite a few cases in Boston recently because of  
24      DNA evidence or new evidence or whatever, but I don't know  
25      if I've heard of this one.

1 MS. SCAPICCHIO: You've heard of other wrongful  
2 convictions but not necessarily the name Shawn Drumgold  
3 doesn't ring a bell?

4 THE JUROR: Not necessarily this one.

5 MS. SCAPICCHIO: And the name Tiffany Moore  
6 doesn't ring a bell to you?

7 THE JUROR: No.

8 MS. SCAPICCHIO: Would you tend to believe the  
9 testimony of a police officer over that of a civilian  
10 witness merely because of his or her position as a police  
11 officer?

12 THE JUROR: No.

13 MS. SCAPICCHIO: Some people think that police  
14 hold such an important role in society that they should  
15 never be sued for anything that happens while they're on  
16 duty. Do you agree with that?

17 THE JUROR: No.

18 MS. SCAPICCHIO: In this case if the evidence  
19 supported the fact that Detective Walsh and Detective  
20 Callahan violated Shawn Drumgold's civil rights and that  
21 violation led to his wrongful conviction, would you have any  
22 concerns about awarding damages if you knew that Shawn had  
23 criminal convictions in the past?

24 THE JUROR: No.

25 MS. SCAPICCHIO: Did you have some hesitation

1 about that?

2 THE JUROR: I was thinking about it. I'm thinking  
3 what convictions, maybe, maybe.

4 MS. SCAPICCHIO: Are there some convictions that  
5 would concern you?

6 THE JUROR: Yeah.

7 MS. SCAPICCHIO: Like what?

8 THE JUROR: Like if he -- like if he was convicted  
9 of earlier crimes that were really harsh and he got out or  
10 maybe something, but it all depends on what it is.

11 MS. SCAPICCHIO: When you say really harsh, what  
12 do you mean?

13 THE JUROR: Like if he severely hurt somebody,  
14 almost killed somebody perhaps or, you know, certain  
15 situations.

16 MS. SCAPICCHIO: Okay. And if you knew that Shawn  
17 had a drug history, would that affect your ability to award  
18 damages if you believed that the evidence supported the  
19 facts that Detective Walsh and Detective Callahan violated  
20 Shawn Drumgold's civil rights?

21 THE JUROR: No, that wouldn't bother me.

22 MS. SCAPICCHIO: Okay. Could I just have a  
23 moment, your Honor. I have nothing further, thank you.

24 THE COURT: Counsel.

25 MR. WHITE: I am William White, and along with



1 Mary Jo Harris, Hugh Curran and John Roache, we represent  
2 Timothy Callahan and Richard Walsh. In your mind does it  
3 make a difference whether somebody uses drugs or sells or  
4 the individual sells drugs?

5 THE JUROR: Yes.

6 MR. WHITE: Let me just ask you a couple of  
7 questions. You know that this case involves the murder of a  
8 12 year-old girl, and you said that you get your sources of  
9 information reading lots of newspapers?

10 THE JUROR: Yes.

11 MR. WHITE: You get it from television as well?

12 THE JUROR: Yes.

13 MR. WHITE: Radio?

14 THE JUROR: Yes.

15 MR. WHITE: Can you tell me do you have any  
16 general opinions of police officers?

17 THE JUROR: I don't, but I have heard many bad  
18 things about the Boston Police. I've heard that they're  
19 either corrupt or negligent because a lot of cases are being  
20 overturned.

21 MR. WHITE: What kind of things do you hear about  
22 it?

23 THE JUROR: Like I heard about one case I think it  
24 was about 12 and a half years he was convicted and they  
25 found him guilty, and it was overturned. I've heard a few,

1 I can't remember what they were about. I read the press and  
2 Internet and online, newspapers, I see articles.

3 THE COURT: This case is about different officers,  
4 and they're entitled to have a jury that doesn't start off  
5 with strikes against them. Do you think that the stuff  
6 you've read and that you know would make it hard for you to  
7 serve as a juror here?

8 THE JUROR: It probably would because I've read a  
9 lot.

10 THE COURT: Okay. I'm going to excuse you, thank  
11 you very much, Mr. Richards. Thank you very much.

12 Mr. Webb, hi, how are you? I've lost track. Now  
13 you go first. They take turns, five minutes each side, I  
14 keep the clock, and I have the hook.

15 MR. WHITE: Good morning. My name is  
16 William White, and along with Mary Jo Harris, Hugh Curran  
17 and John Roache, we represent Timothy Callahan and  
18 Richard Walsh in this particular lawsuit, and we have an  
19 opportunity to talk to you a little bit more about the facts  
20 of the case and some of the issues that may be confronted by  
21 the jury during the course of the trial.

22 This case involves a 1988 shooting of a  
23 12 year-old girl as she sat on a mailbox in the Roxbury  
24 section of Boston. Her name was Darlene Tiffany Moore, and  
25 as a result of a police investigation following her murder,

1 an individual by the name of Shawn Drumgold was arrested.  
2 He was prosecuted, he was convicted of that crime for  
3 murdering Darlene Tiffany Moore.

4 Having said that to you, do you have any  
5 recollection about that particular incident?

6 THE JUROR: Very vague, but I do remember reading  
7 it.

8 MR. WHITE: In 1988, do you remember where you  
9 were living?

10 THE JUROR: Same place, 1399 Phillips Road,  
11 New Bedford, Massachusetts.

12 MR. WHITE: What do you remember about the  
13 Tiffany Moore case or Shawn Drumgold?

14 THE JUROR: No specifics, just reading that it had  
15 happened and it was in Boston.

16 MR. WHITE: In 1988, did you have any relatives or  
17 friends who lived in the Boston area?

18 THE JUROR: I'm sure I did. I worked in Boston in  
19 '88 for Polaroid in Cambridge, so I did have friends in the  
20 Boston area, yes.

21 MR. WHITE: You traveled regularly?

22 THE JUROR: Daily.

23 MR. WHITE: At that time?

24 THE JUROR: Between Cambridge and Waltham.

25 MR. WHITE: How long did you work for Polaroid?

1 THE JUROR: Thirty-six years.

2 MR. WHITE: In that entire time you commuted from  
3 New? Bedford.

4 THE JUROR: No, between 1986 and 1993, my main  
5 plant was in New Bedford, Mass., but we didn't have a union,  
6 and all of our meetings and core headquarters were here in  
7 Cambridge at the time, 750 Main Street.

8 MR. WHITE: Within the past few years, do you  
9 recall if you've heard any stories or read any stories  
10 concerning Shawn Drumgold or Tiffany Moore?

11 THE JUROR: No.

12 MR. WHITE: In this case we expect to have  
13 witnesses testify including police officers and civilian  
14 witnesses. Would you believe either one of those witnesses  
15 more than the other?

16 THE JUROR: It's a very difficult question, why is  
17 it difficult? I just did a case, a state case in November  
18 involving issues with police officers, so what I took from  
19 that case is that the police officers are not always right,  
20 be it wrong or be it right, that's basically how that came  
21 out, and I would have to hear it. I weigh what I hear and  
22 then I make my own judgment.

23 THE COURT: Fair enough. Go on.

24 MR. WHITE: Could you tell me a little bit about  
25 that case from back in November?

1           THE JUROR: Yes. It was a driving to impaired  
2 case where a gentleman pulled up to a fastfood restaurant,  
3 got into a verbal altercation with the teller or the person  
4 serving the food. He ended up throwing his change at her  
5 because she gave him the wrong order a couple of times, and  
6 just coincidentally there happened to be a police officer  
7 parked across the street, and they summoned him, the manager  
8 summoned him, he came over, asked the gentleman to move his  
9 car forward, and then he asked him to park it maybe 50 to 60  
10 feet away between two lines, and he said he smelled alcohol  
11 on the individual, so he got him out of the car, made him do  
12 the sobriety test, the gentleman passed all the motor skills  
13 but he flunked him on the fact of the procedural skills.

14           What does that mean? He asked him to count  
15 backwards from 100, instead of starting at 100, the  
16 gentleman started at 99. He asked him to do the touch your  
17 nose test, like that. The gentleman went like this, but he  
18 performed it correctly, he just didn't do the 90 degree.

19           So the charge was driving to impaired, and the  
20 officer let him drive his car from point A to point B, let  
21 him drive his car to a designated parking spot and then got  
22 him out of the car. Consequently the guy came out  
23 innocent.

24           MR. WHITE: Were you on a jury for that case?

25           THE JUROR: Yes, I was.

1           MR. WHITE: When you started that case, did you  
2 have any idea as to whom you thought you might believe going  
3 into the case when the charges were read to you?

4           THE JUROR: Not when the charges were read, no.

5           MR. WHITE: Did you go into that thinking that you  
6 could keep an open mind?

7           THE JUROR: Yes.

8           MR. WHITE: Through the process you listened to  
9 both sides and you didn't make up your mind until after you  
10 had the instructions from the court?

11          THE JUROR: No. My mind was made up after hearing  
12 both testimonies.

13          MR. WHITE: After you heard both testimonies, in  
14 other words, you heard both sides of the case, is that what  
15 you're telling us?

16          THE JUROR: Right. Actually what made up my mind  
17 was the police officer's testimony.

18          MR. WHITE: Was there something about the police  
19 officer's testimony?

20          THE JUROR: Yes, it was his attitude and it was  
21 the way he tested the individual and the way he came to the  
22 conclusion that the gentleman was impaired when indeed he  
23 passed all the motor skills and he was able to count  
24 successfully from 100 backwards, just the points of  
25 contention between the starting point and the procedural

1       that he didn't touch his nose.

2               MR. WHITE: As a result of that experience, that  
3 jury service, did you form any other opinions about police  
4 officers?

5               THE JUROR: Not going in but if I saw the same  
6 kind of attitude, sure. I mean, the gentleman, the police  
7 officer, and I have respect for the law, I grew up in law,  
8 my friends are law enforcement people, but I can tell kind  
9 of, I feel like I have a sixth sense about what's going  
10 on.

11              MR. WHITE: In this case where police officers are  
12 accused, would you start into this case with any  
13 preconceived notions against them?

14              THE JUROR: No, not until I heard all the  
15 testimony, but I would start with the premise that, you  
16 know, people think that the police officers are always  
17 right, and I know that's not the case. That I know, but  
18 would I have a preconceived notion before hearing, no, I  
19 wouldn't.

20              MR. CURRAN: On your questionnaire you wrote that  
21 your son had some run-ins with law enforcement?

22              THE JUROR: Yes.

23              MR. CURRAN: Could you further elaborate on that  
24 issue?

25              THE JUROR: He was not living with me at the time.

1 He was with his mother, and he was I'm not going to use set  
2 up because he screwed up, he was definitely dealing with  
3 drugs, not using them but he was distributing drugs and he  
4 got caught and he paid the price.

5 MR. CURRAN: Then did that cause you some hard  
6 feelings?

7 THE JUROR: No, the part that caused me the  
8 hardship about that, I think the case was about -- I think  
9 the decision was fair, but I think the prosecution tried to  
10 embellish more than that was there for sure, that I know for  
11 a fact.

12 MR. CURRAN: That was through the witnesses that  
13 they put on?

14 THE JUROR: It was to the witnesses.

15 MR. CURRAN: It was through the witnesses they put  
16 on?

17 THE JUROR: No.

18 MR. CURRAN: What do you mean the prosecution  
19 tried to embellish?

20 THE JUROR: They tried to say there were weapons  
21 involved, which there were not, they found no weapons, they  
22 had tried to introduce hearsay evidence that he owned a  
23 weapon, he never owned a weapon, even as a kid, he owned toy  
24 guns. Unfortunately those charges never came to fruition.  
25 It was basically with the intent to distribute, it was



1 distribution, it was possession with intent.

2 THE COURT: I think you're out of time. Let me  
3 ask you one question before we get to you. It says you had  
4 a kidney transplant, you're on numerous meds twice a day,  
5 that's fine, right?

6 THE JUROR: Yes, as long as I take them on time.

7 THE COURT: We'll make sure you do that.  
8 Ms. Scapicchio.

9 MS. SCAPICCHIO: Hi, my name is Rose Scapicchio.  
10 This is Michael Reilly. We represent Shawn Drumgold. He's  
11 the plaintiff in this case. I have a few more questions to  
12 ask you with respect to what the defense attorneys have  
13 asked you, and let me start with I think I heard you say  
14 that with respect to police officers, you would view them as  
15 any other witness, they wouldn't have any more credibility  
16 or less credibility, you would view them like everybody  
17 else?

18 THE JUROR: That's correct.

19 MS. SCAPICCHIO: You would wait to hear the  
20 evidence and determine what was said by each witness whether  
21 they were police officers or civilian witnesses before you  
22 made up your mind?

23 THE JUROR: That's correct.

24 MS. SCAPICCHIO: In this case I think Mr. White  
25 told you that my client had been convicted of the murder of

1 Tiffany Moore 15 years later, he filed a motion for a new  
2 trial and he was released. Do you remember hearing anything  
3 about anything that happened in 2003?

4 THE JUROR: No.

5 MS. SCAPICCHIO: I don't have any further  
6 questions, your Honor.

7 THE COURT: Okay.

8 MR. CURRAN: Judge, can we be heard?

9 THE COURT: Yes. Actually why don't you wait  
10 outside for just a second.

11 MR. CURRAN: Judge, I move to challenge this  
12 gentleman for cause. It's pretty clear to me that the  
13 language he used is that he had a sixth sense, that he based  
14 it not on the credibility of any of the witnesses. He also  
15 indicated in regards to his son's aspect of the case, that  
16 the prosecution embellished, and clearly in a drug case and  
17 the investigation, it all falls on police officers. This is  
18 too important a case to risk the fairness of a trial based  
19 on someone who clearly has a bias based on personal  
20 dealings.

21 THE COURT: The question is whether I take what he  
22 said or I take your impression of what he said because what  
23 he said was a witness individually, and I'm not going to  
24 start with a premise in one direction. Do I take it for  
25 what it's worth or do I take, you know, your interpretation

1 of it?

2 MR. CURRAN: Well, Judge, the interpretation, he's  
3 clearly said the prosecution embellished. It wasn't true,  
4 he said that, this is wrong. This isn't a drunk driving  
5 case.

6 THE COURT: I understand.

7 MR. CURRAN: There's one thing, the drunk driving  
8 issue, which I can understand the Court's consideration  
9 saying he's going to weigh the evidence, but here he clearly  
10 said, Judge, that the prosecution, which unfortunately you  
11 know is bunched together with the police in a drug case,  
12 it's only police officers.

13 THE COURT: Mr. Curran, I know what you said, but  
14 the rule I have been following is that if a juror says I can  
15 be fair, unless it's expressly contradicted by what else he  
16 said, and we had with Mr. Bennett, Mr. Richards, the one  
17 with the T-shirt, you know, who said I can be fair  
18 notwithstanding knowing about this other, he said I can't be  
19 fair. If he said I can be fair, that would be the problem.  
20 I'm not willing to second guess. You have extra peremptory  
21 challenges, so if you can tell Mr. --

22 MR. CURRAN: I ask you that you inquire further,  
23 Judge, because five minutes for an important issue like  
24 that.

25 THE COURT: Okay.

1 MS. HARRIS: Before he comes in, if I could just  
2 raise one question as well. I'm also troubled by "I have a  
3 sixth sense and can tell," and the sense that he would be  
4 judging on attitude instead of on evidence, if you would.

5 THE COURT: I think that's fair. Do you want to  
6 bring Mr. Webb back in again. Mr. Webb, let me ask you some  
7 questions. The question is whether or not when these police  
8 officers appear in front of you as defendants in this case  
9 whether they're going to be on an equal playing field or  
10 whether you're going to start thinking that because the  
11 police were less than candid in the case you just heard or  
12 your problems with your son's case, you're going to  
13 basically start being skeptical of the information that they  
14 have. Do you think you're going to be that way?

15 THE JUROR: I don't think I'm going to start out  
16 that way. I can't tell you where I'm going to end up, it  
17 depends on what I hear.

18 THE COURT: That's what I want to know. It's one  
19 thing to say I'm not going to give them the benefit of every  
20 doubt, as many people would say, I want to make sure that  
21 they're not starting off in a lower position than any other  
22 witness, and you can say with confidence that they wouldn't  
23 be?

24 THE JUROR: Equal but not lower.

25 THE COURT: Equal. Then you said you had a sixth

1 sense about these things. If you become a juror in this  
2 case, I will instruct you that jurors are supposed to decide  
3 credibility, supposed to size up a witness, but they have to  
4 size up a witness based on the way the witness testifies and  
5 the information in the case, not prejudices and biases. Do  
6 you think you could do that?

7 THE JUROR: I've done it in the past. I think I  
8 probably can.

9 THE COURT: Okay.

10 THE JUROR: I shouldn't use the word "probably,"  
11 you want a definite, as I said, they'll start out equal.

12 THE COURT: And the problem with your son could  
13 lead someone to walk away saying I, you know, I hate the  
14 police, I hate the prosecutors and start off a case with a  
15 tilt. Do you think you'd have that in this case?

16 THE JUROR: I doubt it. I mean, every day is a  
17 new day.

18 THE COURT: Right.

19 THE JUROR: Every case is different. Every  
20 situation is different.

21 THE COURT: Right, okay.

22 THE JUROR: And New Bedford is a very small town,  
23 a lot of people know everybody, so it's easy to sit there  
24 and say, you know, I knew that person growing up, I knew  
25 what's going on in the police department, I knew what's

1 going on.

2 THE COURT: Now you don't know any of the people  
3 in Boston here?

4 THE JUROR: No.

5 THE COURT: You don't know any of the defendants  
6 in this case?

7 THE JUROR: No, I didn't.

8 THE COURT: You didn't recognize any of the names  
9 that I read to you?

10 THE JUROR: No, I did not.

11 THE COURT: I'm going to ask you to call this  
12 number, see, and you need this juror number when you call  
13 up, you know the juror number that was on the summons, if  
14 you call it after six, they'll tell you whether you're on  
15 the final jury. Thank you very much.

16 MR. CURRAN: Your Honor, it's 11:00. Judge, for  
17 the record, I wanted to renew my challenge for cause based  
18 on your colloquy to protect the record.

19 THE COURT: I know. The rule that I follow is  
20 unless it's explicitly contradicted by something or the  
21 relationship is too close.

22 MR. CURRAN: Judge --

23 THE COURT: I don't want to hear anymore,  
24 Mr. Curran. I do want to say one thing though. I wanted to  
25 put on the record totally unrelated to this. My husband has

1 Kerry Walsh working for him as an assistant, and Kerry Walsh  
2 is the niece of one of the defendants.

3 THE DEFENDANT: Kerry is my niece, ma'am.

4 THE COURT: She was going to come and watch the  
5 trial, and in the course of that she found out whether she's  
6 your niece, I wanted to put that on the record. I don't  
7 think it has any relevance to anything. We'll be back in 15  
8 minutes.

9 (A recess was taken.)

10 THE COURT: Let's put this on the record before we  
11 do the jurors. We need to select five, and we have six from  
12 the initial group. There's another group of jurors  
13 downstairs. With your permission, I'd like to now excuse  
14 those you haven't seen their questionnaires, my  
15 representation, my clerk's representation that there are  
16 jurors from 76, juror 76, 78, 85, 84, 86, 91 and 101 have  
17 tickets. I'd like to excuse them now because at most we  
18 will be selecting two from a group of 11, and so I think we  
19 can afford to let these people go. Anyone have any  
20 objections?

21 MS. SCAPICCHIO: None, your Honor. Before the  
22 next one, just so you know, this person answered question 27  
23 that they opposed people who were wrongfully convicted.

24 THE COURT: This is Catania, Regina Catania.

25 MR. CURRAN: I think we need to bring to the

1 Court's attention because it's going to cause some  
2 complications the CORI issue.

3 THE COURT: What do you mean?

4 MR. CURRAN: We did not receive it in the mail,  
5 and as of just a few minutes ago, they still have not  
6 disclosed CORI to the witnesses, and I know that because  
7 there's certified copies. We're looking at four or five  
8 different courts, Judge.

9 THE COURT: You'll open --

10 MS. SCAPICCHIO: Ricky Evans.

11 THE COURT: Will he be finished by the morning?  
12 Let me ask you a question. Is there a meaningful contest so  
13 at least with respect to Evans we can get going without  
14 certified copies, she can stipulate to a conviction?

15 MR. CURRAN: We understand, Judge. If there's  
16 anything new, and those cases are all over the place since  
17 2006, when he was deposed, that's the problem.

18 MS. SCAPICCHIO: If it is, it is. I don't have a  
19 problem stipulating.

20 THE COURT: Get the CORI. Now, is there someone I  
21 can call?

22 MR. CURRAN: We can try to find that out at the  
23 break.

24 THE COURT: Let me find that out. I'll call, I'll  
25 scream. If you can stipulate to these convictions, once you



1 get the CORI, we're set to go.

2 MR. ROACHE: The issue, I think, your Honor, with  
3 respect to Mr. Evans is not just the convictions, it's what  
4 is on his record because the information is vital to the  
5 case as to whether or not he's going to claim the police did  
6 some promises, rewards or inducements with respect to  
7 pending cases back in 1989.

8 THE COURT: Right.

9 MR. ROACHE: And we need to see those actual  
10 cases, the dockets to see what happened with those cases.

11 THE COURT: Have you had some depositions?

12 MR. CURRAN: We've had some.

13 THE COURT: As of his deposition a year ago,  
14 didn't you have whatever issues were outstanding?

15 MR. CURRAN: As of that date.

16 THE COURT: But your concern --

17 MS. HARRIS: But the question is some of them  
18 remained open.

19 THE COURT: Some of those remained open over the  
20 past year, so you're just updating this information?

21 MR. CURRAN: Correct.

22 THE COURT: It seems to me you have enough to  
23 start and we'll see where you go, and if you need to update  
24 it, you can make inquiries, you know what I mean, you can go  
25 by the CORI record rather than having to go and get

1 certified copies of documents, okay. You're talking about  
2 the CORI record won't show which issues are still open, is  
3 that what you're concerned about?

4 MR. ROACHE: Right.

5 THE COURT: You can make a call this afternoon  
6 what issues are still open, you could get dockets this  
7 afternoon, or you could have done that before we started.  
8 You didn't need CORI for that.

9 MR. ROACHE: Well, we do need the CORI for the  
10 updated.

11 THE COURT: Right, but that you'll get.

12 MR. ROACHE: I'm not so sure we're going to get  
13 that.

14 THE COURT: You'll get it if I call, frankly,  
15 okay. I may not be able to push around the clerk of the  
16 Suffolk Superior Court, but I can do better on the criminal  
17 record.

18 MS. SCAPICCHIO: I did try to call, your Honor,  
19 during the break, and Paula Sordillo was in session so I  
20 left her another message.

21 THE COURT: Hi.

22 THE JUROR: Good morning, everyone.

23 THE COURT: Good morning. You are Regina Catania?

24 THE JUROR: I am.

25 THE COURT: What's the number of the question?

1 MS. SCAPICCHIO: 27, your Honor.

2 THE COURT: You said when asked people that are  
3 wrongly convicted sometimes bring lawsuits against the  
4 police department. Do you favor or oppose this type of  
5 lawsuit? You said oppose. There's no right or wrong  
6 answers here, but this case is about the allegation of a  
7 wrongful conviction, and the claim is that it was brought  
8 about through the actions of the police officers in this  
9 case, the police officers and the city in this case. Do you  
10 think that you would be able to listen to the evidence?

11 THE JUROR: What I based that judgment on, I  
12 figured it was a court case, they went to court, it was  
13 resolved, and that's how the court system is supposed to  
14 work.

15 THE COURT: Well --

16 THE JUROR: Did I misunderstand the question?

17 THE COURT: Oh, I see, you thought this is part of  
18 the original case.

19 THE JUROR: No, no, not this case, that question  
20 was someone's gone to court, they've been found guilty and  
21 that's how --

22 THE COURT: This case is a civil rights action  
23 brought against the City of Boston and a number of  
24 individual police officers for the wrongful conviction of  
25 Mr. Drumgold. Do you have any feelings against such a case?

1 THE JUROR: No.

2 THE COURT: Okay. Ms. Scapicchio.

3 MS. SCAPICCHIO: Thank you, your Honor. Hi, I'm  
4 Rose Scapicchio. This is Michael Reilly. We represent  
5 Shawn Drumgold. I'm going to ask you just a few questions  
6 about the case to see if you have any outside knowledge that  
7 might affect your ability to be a fair and impartial  
8 juror.

9 THE JUROR: Okay.

10 MS. SCAPICCHIO: This case actually stems from a  
11 murder that took place in the City of Boston in 1988, a  
12 little girl by the name of Darlene Tiffany Moore was shot  
13 and killed in Roxbury as she sat on a mailbox. My client,  
14 Shawn Drumgold was arrested, tried and convicted and  
15 sentenced to life without the possibility of parole.  
16 Fifteen years later he filed a motion for new trial that was  
17 granted, and he was released from prison. Does the name  
18 Shawn Drumgold or Tiffany Moore or any of the facts of this  
19 case ring a bell to you?

20 THE JUROR: Nothing.

21 MS. SCAPICCHIO: And when you indicated on your  
22 questionnaire that you would oppose lawsuits brought by  
23 wrongfully convicted people, do I understand you to mean if  
24 you were convicted and if you remained in jail, you  
25 shouldn't be able to sue?

1 THE JUROR: No, I thought if they -- I guess I  
2 misinterpreted the question. I wasn't reading it clearly.  
3 I thought if you went through a trial and it was decided it  
4 was a done deal, the judicial system the way it's supposed  
5 to work...

6 MS. SCAPICCHIO: So once there was a conviction,  
7 that was the end of it?

8 THE JUROR: That's how.

9 MS. SCAPICCHIO: And that should be the end of it?

10 THE JUROR: That's how I understand it.

11 MS. SCAPICCHIO: If someone was then released from  
12 jail and filed a civil lawsuit against the police officers  
13 who investigated the case, would you have any concerns about  
14 that type of case?

15 THE JUROR: No, because I just listen and listen  
16 to the evidence that was brought forward.

17 MS. SCAPICCHIO: Sometimes people think that the  
18 job that police officers do is so important to society that  
19 they shouldn't be sued for anything that happens while  
20 they're on duty. Do you agree with that?

21 THE JUROR: No, nobody's that important.

22 MS. SCAPICCHIO: Would you believe the testimony  
23 of a police officer over that of a civilian witness because  
24 of his or her position as a police officer?

25 THE JUROR: No.

1 MS. SCAPICCHIO: And in this case if the evidence  
2 demonstrated that the defendants, Detective Walsh and  
3 Detective Callahan, violated Shawn Drumgold's civil rights  
4 and that violation led to his wrongful conviction, would you  
5 have any concerns awarding damages if you knew that Shawn  
6 had a criminal past?

7 THE JUROR: No.

8 MS. SCAPICCHIO: Okay. And the same question a  
9 little differently, if the evidence supported the fact that  
10 Detective Callahan and Detective Walsh violated  
11 Shawn Drumgold's civil rights and that violation led to his  
12 wrongful conviction, would you have any concerns awarding  
13 damages if you knew that Shawn had a drug problem?

14 THE JUROR: No.

15 MS. SCAPICCHIO: I don't have anything other  
16 questions, thank you very much.

17 THE COURT: Counsel.

18 MS. HARRIS: Good morning, I think it's still  
19 morning. I'm Mary Jo Harris. Myself and the other  
20 gentlemen here, we represent Detectives Walsh and Callahan  
21 that are in this suit. Following up a little bit on the  
22 questions you were just asked, premising this case is about  
23 the conviction of Mr. Drumgold. If you received evidence or  
24 heard evidence at trial that suggested that neither of the  
25 police officers did anything to compromise Mr. Drumgold's

1 rights, would you be able to return a verdict in their favor  
2 notwithstanding the fact that he was released?

3 THE JUROR: If they were found innocent, is that  
4 when you're saying?

5 MS. HARRIS: Well, you're going to be hearing the  
6 facts and drawing conclusions here.

7 THE JUROR: Right.

8 MS. HARRIS: Just as Mr. Drumgold's going to  
9 present a side of the story, we're also going to present the  
10 detectives' side of the story, and if you heard evidence  
11 that demonstrated that there hadn't been any misconduct on  
12 the part of these officers, would you be able to return a  
13 verdict for them notwithstanding the fact that Mr. Drumgold  
14 has been released from prison?

15 THE JUROR: Yeah.

16 MS. HARRIS: So you're going to be able to listen  
17 to all of the evidence?

18 THE JUROR: They're just people to me, they're not  
19 jobs. There's no difference in who they are. I don't know  
20 the case, I don't know the people. They're strangers to  
21 mean, and --

22 MS. HARRIS: So you'll be keeping an open mind and  
23 learning everything about this case at trial?

24 THE JUROR: Yes, I think to the best of my  
25 knowledge.

1 THE COURT: That's fine. That's all that we're  
2 asking.

3 MS. HARRIS: Anything else?

4 MR. CURRAN: No, I'm fine. Thank you.

5 MS. HARRIS: Thank you.

6 THE COURT: I'm going to ask you to call this  
7 number, you have your juror number which is on the summons,  
8 you have to call after six o'clock.

9 THE JUROR: This one here that they told us wasn't  
10 the juror number?

11 THE COURT: I guess so. You better check. They  
12 told us you didn't have a juror number.

13 THE JUROR: There's a juror number, the number  
14 that the order that you're coming in here and then there's a  
15 number on the summons.

16 THE COURT: It's the number on the summons.

17 THE JUROR: Okay.

18 THE COURT: Call after six and we'll let you know  
19 whether you're on the final jury here.

20 THE JUROR: Have a great day everybody.

21 MR. WHITE: You, too.

22 MS. HARRIS: Ruth Albert, 64.

23 MR. ROACHE: Your Honor, this particular witness I  
24 believe had taught at some point at the Jeremiah Burke High  
25 School, which is located in the general area. I'd ask the



1 Court to inquire about what was going on in 1988.

2 THE JUROR: This is supposed to be intimidating.

3 THE COURT: No, come on in, not when you get to  
4 know them.

5 THE JUROR: As long as it is not a job  
6 interview.

7 THE COURT: It is a job interview actually.  
8 According to your questionnaire, you had worked at the  
9 Jeremiah Burke School?

10 THE JUROR: Yes.

11 THE COURT: Some of the --

12 THE JUROR: Not worked, went to, graduated.

13 THE COURT: I don't think that's a problem. Go  
14 on. When did you graduate?

15 THE JUROR: Do I have to tell you, 1961. Before  
16 anyone's born in this room probably.

17 MR. ROACHE: 1961, okay.

18 THE COURT: Not a problem. Counsel.

19 MR. WHITE: Thank you. Ms. Albert, my name is  
20 William White and along with Mary Jo Harris, Hugh Curran and  
21 John Roache, we represent the detectives in this matter,  
22 Detective Callahan and Detective Callahan. This case stems  
23 from an incident that occurred back in 1988 when a 12  
24 year-old girl by the name of Darlene Tiffany Moore was shot  
25 and killed.

1 THE JUROR: I seem to that remember that, yeah.

2 MR. WHITE: It happened in the Roxbury section of  
3 Boston.

4 THE JUROR: Uh-hum.

5 MR. WHITE: How was it that you remember the  
6 incident?

7 THE JUROR: The name more than anything else. I  
8 can't remember that many details truthfully.

9 MR. WHITE: Do you recall if you followed the  
10 incident?

11 THE JUROR: She was just the wrong place the wrong  
12 time, and I don't remember the kids said -- I don't remember  
13 the details truthfully.

14 MR. WHITE: Have you read or heard any recent  
15 stories about the case?

16 THE JUROR: No.

17 MR. WHITE: As a result of Tiffany Moore being  
18 shot and killed while she was on the mailbox, the police  
19 conducted an investigation that led them to arrest  
20 Shawn Drumgold.

21 THE JUROR: Okay. The names are coming back to  
22 me.

23 MR. WHITE: Okay. What do you remember about the  
24 name Shawn Drumgold?

25 THE JUROR: I don't want to introduce terms

1 because I really don't know the details, but I'm thinking  
2 they arrested him, but he wasn't supposed to have done it.  
3 I hate to say that, I don't remember that many details.

4 MR. WHITE: When you were getting your information  
5 back in 1988, was that from newspapers?

6 THE JUROR: Newspaper, maybe television also.

7 MR. WHITE: Are you a person who reads the  
8 newspapers every day?

9 THE JUROR: Not anymore, no.

10 MR. WHITE: Were you back then?

11 THE JUROR: I would skim the headlines more than  
12 anything else.

13 MR. WHITE: Did you watch the news every night?

14 THE JUROR: Probably did watch the news every  
15 night passively, it was on while I was eating dinner.

16 MR. WHITE: That sort of thing, you heard it in  
17 the background?

18 THE JUROR: Or heard it in the morning when I woke  
19 up, that type of thing.

20 MR. WHITE: Do you recall if you tried to follow  
21 what happened in that case?

22 THE JUROR: Not actively. I was hit in the face  
23 with it once in a while, you keep hearing it over and over  
24 again. I don't think I tried to look out for the details.

25 MR. WHITE: You mentioned that you heard something

1       about he wasn't supposed to have done it?

2               THE JUROR: I think they said -- I think I  
3       remember that he was found guilty, then he wasn't, he wasn't  
4       there. There was something that wasn't straightforward.  
5       I'm thinking what I thought originally that didn't really  
6       happen maybe.

7               MR. WHITE: When you thought that didn't really  
8       happen maybe, did that give you any impression of the police  
9       or the prosecution of that case?

10              THE JUROR: I don't think I paid attention to that  
11       many details, it was just like a pleading thought in my  
12       head.

13              MR. WHITE: Did you ever have any conversations or  
14       conversations with anybody in particular that case?

15              THE JUROR: No.

16              MR. WHITE: In this case, the plaintiff gets to go  
17       first and present evidence and then the defendants get the  
18       chance to present evidence. Would you keep an open mind  
19       until you heard both sides?

20              THE JUROR: I would hope so. I would try to.

21              MR. WHITE: Is there anything that you can think  
22       of that would prevent you from keeping an open mind to hear  
23       both sides?

24              THE JUROR: I don't think so.

25              MR. WHITE: If you were to hear in this case

1 evidence concerning the police investigation that led you to  
2 conclude that there was no misconduct as the plaintiff  
3 allegation, would you be able to return a verdict in favor  
4 of the detectives?

5 THE JUROR: Yeah, I tend to think that I would be  
6 pro-police than detectives, to be honest, because I tend to  
7 think sometimes they have a hard job.

8 MR. WHITE: With regards to, you know, your  
9 statement that you might tend to be pro-police --

10 THE JUROR: In this situation, I would try to be  
11 very neutral and keep an open mind.

12 MR. WHITE: Was there anything that would prevent  
13 you from keeping an open mind about the evidence you heard  
14 in this case understanding that you know nothing?

15 THE JUROR: Not that I'm aware of, put it that  
16 way.

17 MR. WHITE: Not that you're aware of. In the  
18 event we expect witnesses to testify, some were or are  
19 police officers, some are non-police officers, would the  
20 fact that somebody was a police officer or had been a police  
21 officer cause you to believe their testimony more than a  
22 non-police officer?

23 THE JUROR: That seems like a tough question for  
24 me because I think my bias would be for the police, but I  
25 would try to think that people are telling the truth and be

1 open to both sides.

2 MR. WHITE: Would you -- so you're telling us that  
3 you would try to keep an open mind?

4 THE JUROR: Yeah, right, and I think I would be  
5 able to. Sometimes things sneak in that you don't realize,  
6 you think you're keeping an open mind and there's something  
7 that is subtle.

8 MR. WHITE: Are there any experiences that you can  
9 think of to cause you to want to believe a police officer  
10 more than anyone else?

11 THE JUROR: Nothing personal, it's just knowing  
12 that who they are and the job they perform.

13 MR. WHITE: You understand that they perform a  
14 difficult job in our society?

15 THE JUROR: Yes, exactly, right. A lot of times  
16 society doesn't give them the right respect, I think.

17 MR. CURRAN: The fact that Shawn Drumgold was  
18 released, does that factor alone force you to draw any  
19 conclusions that would impact your ability to evaluate the  
20 evidence?

21 THE JUROR: I know the details of the case  
22 obviously, saying he was released. I don't know why he  
23 would be released. If he was released because the law says  
24 he should be, fine; if he's released because he was  
25 innocent, fine. I don't think that would affect me in any

1 way.

2 MR. CURRAN: You still would be able to evaluate  
3 the police officers based on the conduct of the witnesses?

4 THE JUROR: Yes.

5 MR. ROACHE: May I have one question?

6 THE COURT: Yes.

7 MR. ROACHE: What section of the City of Boston  
8 did you grow up?

9 THE JUROR: Many cases up to being 12 years old  
10 was Charlestown, then I grew up in Dorchester, then in  
11 college, Mattapan.

12 MR. ROACHE: Are you familiar with Grove Hall  
13 area?

14 THE JUROR: Yes.

15 MR. ROACHE: Are you familiar with Humboldt Avenue  
16 and Homestead Street.

17 THE JUROR: I was a teenager at the time. That  
18 was a long time, that was in the 50's. I'm vaguely  
19 familiar.

20 MR. ROACHE: How about Sonoma Street?

21 THE JUROR: It doesn't sound familiar.

22 MS. SCAPICCHIO: I'm Rose Scapicchio. This is  
23 Michael Reilly. We represent Shawn Drumgold. I had a  
24 couple follow-up questions based on your answer from the  
25 questions of the defense attorneys. In this case you said

1       you think you might be pro-police?

2               THE JUROR:   Yes.

3               MS. SCAPICCHIO:   What does that mean?   Can you  
4       explain that for us a little bit?

5               THE JUROR:   Yes, maybe I can.   I would think that  
6       they have no reason to lie, I just would think they're  
7       telling the truth.

8               MS. SCAPICCHIO:   So you tend to believe their  
9       testimony a little bit more because of their training and  
10      experience as a police officer?

11              THE JUROR:   Also to put the other side to it,  
12      presuming everyone is under oath and everyone is telling the  
13      truth.

14              MS. SCAPICCHIO:   If you had one witness who was a  
15      police officer and one witness who was not and they were  
16      saying two totally opposite things, would you tend to lean  
17      towards the police officer?

18              THE JUROR:   I would tend to lean towards the  
19      police officer, I would think.   I would try not to.   I think  
20      it's a gut thing in my system that I would.

21              MS. SCAPICCHIO:   Thank you for being so honest.

22              THE COURT:   So let me ask the other question then.  
23      What we're looking for is jurors that will not tilt in one  
24      direction.

25              THE JUROR:   Right, of course.



1 THE COURT: Since there will be instances in which  
2 the police will say one thing and someone will say the  
3 opposite, so the question is whatever your general feelings  
4 about that, do you think in this case you could be fair?

5 THE JUROR: I know what you're saying. I'm trying  
6 to answer honestly, and I don't know my honest. I don't  
7 know. It depends on other things. I suspect I'd be  
8 influenced by other things besides them being police  
9 officers and not police officers that would be the beginning  
10 part of my judgment, but then I think what they say is more  
11 convincing is also have something more.

12 MS. SCAPICCHIO: When you say the beginning part  
13 of your judgment --

14 THE JUROR: My initial.

15 MS. SCAPICCHIO: That would be lean towards the  
16 police in the beginning before anyone said anything?

17 THE JUROR: Yes.

18 MS. SCAPICCHIO: Then you'd listen to the  
19 evidence, but in the beginning you'd lean toward the police?

20 THE JUROR: I think so.

21 THE COURT: I'm going to have to disqualify you  
22 then, Ms. Albert. Thank you very much for your candor.

23 THE JUROR: I had to be honest.

24 THE COURT: No, that's fine. Thank you.

25 Raymond Marchand.

1 MS. SCAPICCHIO: He thought he knew Roache from  
2 the Knights of Columbus.

3 MS. HARRIS: That was somebody else, I think.  
4 This is somebody who knew Flanagan socially.

5 MS. SCAPICCHIO: "I would like to participate and  
6 be a part of democracy and action and serve." I like that.

7 THE COURT: Hi.

8 THE JUROR: Good morning.

9 THE COURT: This is Mr. Marchand who I turned into  
10 an Italian, I called you Mr. Marchando.

11 THE JUROR: Yes.

12 THE COURT: So I think we begin with  
13 Ms. Scapicchio.

14 MS. SCAPICCHIO: Hi, my name is Rose Scapicchio,  
15 and this is Michael Reilly, and we represent Shawn Drumgold.  
16 He's the plaintiff in this case. I want to give you a  
17 little background of the case to see if it jogs any memories  
18 what you may have read or seen outside of what you will hear  
19 in the courtroom. This case started in 1988 when a little  
20 girl by the name of Darlene Tiffany Moore was shot and  
21 killed as she sat on a mailbox in Roxbury. My client was  
22 arrested by the police, he was tried and convicted of her  
23 murder. He was sentenced to life in prison and 15 years  
24 later filed a motion for a new trial and was released from  
25 prison.

1 Do the facts of this case jog your memory as  
2 having seen or heard or read anything about the case?

3 THE JUROR: The name Tiffany Moore strikes a bell,  
4 but other than that.

5 MS. SCAPICCHIO: Anything specific of  
6 Tiffany Moore other than the name?

7 THE JUROR: Just the name.

8 MS. SCAPICCHIO: What about the name  
9 Shawn Drumgold, does that ring a bell at all?

10 THE JUROR: No.

11 MS. SCAPICCHIO: Do you remember reading anything  
12 about the Tiffany Moore or Shawn Drumgold case in 2003 when  
13 Shawn was released from prison?

14 THE JUROR: No.

15 MS. SCAPICCHIO: Some people believe that police  
16 officers have such an important role in society that they  
17 shouldn't be sued for anything that happens while they're on  
18 duty. Do you agree with that?

19 THE JUROR: It all depends on the circumstances  
20 involved in the situations and how they were presented and  
21 how their job was done.

22 MS. SCAPICCHIO: In this case if the evidence  
23 suggested that Detective Walsh and Detective Callahan  
24 violated Shawn Drumgold's civil rights and that violation  
25 led to his wrongful conviction, would you have any concerns

1 about awarding damages if you knew that Shawn Drumgold had a  
2 criminal past?

3 THE JUROR: I would be presumptuous to make a  
4 statement now on that without hearing the evidence and the  
5 facts behind the case.

6 MS. SCAPICCHIO: Okay. And the same sort of  
7 question again if the evidence suggested that  
8 Detective Walsh and Detective Callahan violated  
9 Shawn Drumgold's rights and that violation led to his  
10 wrongful conviction, would you have any concerns about  
11 awarding damages if you knew Shawn had a drug problem?

12 THE JUROR: Well, like I said, it all depends on  
13 the suppositions of the case, and I don't think prior  
14 records are involved or past history, I think it would have  
15 to do with the present situation.

16 MS. SCAPICCHIO: Okay. Would you tend the believe  
17 the testimony of a police officer over that of a civilian  
18 witness merely because his or her position as a police  
19 officer?

20 THE JUROR: Absolutely not.

21 MS. SCAPICCHIO: I don't have any further  
22 questions. Thank you very much.

23 THE COURT: Thank you. You may go.

24 MR. WHITE: Sir, I think if I understand what you  
25 said to Ms. Scapicchio, you're saying that you would keep an

1 open mind in this case?

2 THE JUROR: Absolutely.

3 MR. WHITE: You understand that in this case the  
4 plaintiff goes first and then the defendants have an  
5 opportunity to put on their evidence or questions in the  
6 case?

7 THE JUROR: That's correct.

8 MR. WHITE: And so until they get an opportunity,  
9 your mind will be open; is that right?

10 THE JUROR: That is correct.

11 MR. WHITE: Sir, just following up on the question  
12 about drugs, do you have any opinions regarding drug  
13 dealers?

14 THE JUROR: Drug dealers?

15 MR. WHITE: Drug dealers.

16 THE JUROR: I think they're in the wrong business,  
17 and I don't think drugs should be involved in any particular  
18 type of society, especially where around schools and things  
19 like this because it's the degradation of any well-balanced  
20 society.

21 MR. WHITE: Sir, in this case there are going to  
22 be witnesses who testify, and you're going to hear from  
23 police officers, you're going to hear from our witnesses.  
24 Some of the witnesses testified in 1988 one way and then  
25 they changed or recanted their testimony or lied. We're

1 going to say they lied about their testimony at some point.  
2 How do you feel about that?

3 THE JUROR: Well, the fact of the matter is it's  
4 like once a person changes his testimony and things of this  
5 nature, then his credibility comes into effect.

6 MR. WHITE: So you're weighing that in the  
7 credibility of what those witnesses have to say or offer?

8 THE JUROR: That should be, you know, to the best  
9 of my ability, you know, which would carry more weight.

10 MR. WHITE: Sir, in 1988, do you remember where  
11 you were living?

12 THE JUROR: 1988, yes, I was still living where I  
13 am living at, 39 Beaver Street, Salem, Mass.

14 MR. WHITE: At any point within the last few  
15 years, have you heard any stories at all that you remember  
16 concerning Tiffany Moore or Shawn Drumgold?

17 THE JUROR: As this lady asked me, the only thing  
18 that came into mind was that Tiffany Moore was shot during,  
19 you know, I understand if my recollection during a drive-by  
20 or something like that.

21 MR. WHITE: Something involving gangs or something  
22 like that?

23 THE JUROR: No, that she was just hurt, anything  
24 else was just vague. The name seemed to pop up.

25 MR. CURRAN: I don't have any questions. Thank

1     you, sir.

2                 THE COURT: Thank you, sir. I just have to give  
3     you this. You have to call after 6:00 with your juror  
4     number, and they'll tell you if you're selected on the final  
5     jury, and if you are, you have to come in in the morning.  
6     Don't read anything about the case. Don't do any research,  
7     okay.

8                 THE JUROR: Okay. That juror number would be on  
9     my --

10                THE COURT: On your summons.

11                THE JUROR: On my summons, right.

12                THE COURT: Thank you. 21, three more.

13                MS. HARRIS: This is another that opposes,  
14     Patricia Sexton and question No. 27.

15                MS. SCAPICCHIO: There goes my theory that women  
16     are more sympathetic.

17                THE COURT: This is Patricia Sexton and I just  
18     want to begin.

19                THE JUROR: Hi.

20                THE COURT: Good morning. There was a question on  
21     the questionnaire that said people who have been wrongly  
22     convicted sometimes bring lawsuits against the police  
23     department. Do you oppose that lawsuit? This case is about  
24     someone who claimed to have been wrongly convicted and who  
25     now years later brings a case against the police officers

1 who he claims were responsible for that. Do you have any  
2 problems serving as a juror in this case?

3 THE JUROR: No.

4 THE COURT: So this was just a general opposition?

5 THE JUROR: Sure. It's supposition on my own part  
6 if, you know, I mean, you don't generally see people suing  
7 police officers. I guess that's just my theory that it's a  
8 generalization, but I wouldn't have a problem with serving,  
9 I'm not judgmental.

10 THE COURT: Okay. So the question is whether in  
11 this case with the instructions I give you you'd be able to  
12 say, well, you may not like it in general, but if the  
13 evidence pointed in one direction or another, you'd have no  
14 problem going there?

15 THE JUROR: None.

16 THE COURT: All right, who goes?

17 MS. HARRIS: I think it's me. My name is Mary Jo  
18 Harris, and I and these gentlemen represent Detectives  
19 Richard Walsh and Timothy Callahan. Just to give you a  
20 little bit of background of this case, this case is related  
21 to or stems from the 1988 murder of Tiffany Moore who was a  
22 12 year-old girl who was shot as she sat on a mailbox on a  
23 street corner in Boston. Does that ring a bell?

24 THE JUROR: It doesn't.

25 MS. HARRIS: And the plaintiff here, Mr. Drumgold,



1 was arrested and ultimately convicted of that murder and was  
2 released from prison some few years ago. Does his name ring  
3 a bell to you?

4 THE JUROR: None at all, no.

5 MS. HARRIS: I see that you went to Boston City  
6 Hospital for your nursing diploma.

7 THE JUROR: I did.

8 MS. HARRIS: When was that?

9 THE JUROR: I graduated in 1972.

10 MS. HARRIS: Did you ever work at Boston City  
11 Hospital?

12 THE JUROR: I did. I worked till 1974, when my  
13 first child was born, '73, I'm sorry, so it was just a year  
14 out for my nursing career, then I moved to the North Shore,  
15 and that's where I worked.

16 MS. HARRIS: When you were working at Boston City  
17 Hospital, did you have any experience with victims of urban  
18 crime, of gunshot wounds, things like that?

19 THE JUROR: I believe I did take care of a couple  
20 of patients that were shot, but it wasn't like police shot,  
21 it was crime amongst themselves, drug dealers.

22 MS. HARRIS: I note that I think it's your  
23 son-in-law is a police officer in Lynn and Cambridge?

24 THE JUROR: He was a Lynn police officer and just  
25 transferred to Cambridge two weeks ago.

1 MS. HARRIS: How long has he been with the Lynn  
2 Police?

3 THE JUROR: I believe he started in 2001.

4 MS. HARRIS: Did you ever have occasion to speak  
5 to him about the nature of his job or the kind of work he  
6 does, the kind of experiences he has?

7 THE JUROR: He has small children so he tends not  
8 to discuss a lot so just that the kids aren't within hearing  
9 view of whatever he does, and he lived in the same community  
10 that he worked, so he really didn't like discussing what  
11 went on, so very rarely would he bring something up.

12 MS. HARRIS: Okay. And I'm assuming you  
13 understand at this point this is a dispute, if you will,  
14 between police officers and the plaintiff?

15 THE JUROR: Uh-hum.

16 MS. HARRIS: And much of the evidence that's going  
17 to be put forward at this trial is going to be contested.  
18 Would you have any problem keeping an open mind as you hear  
19 the evidence and deciding issues of credibility and deciding  
20 which evidence to accept?

21 THE JUROR: I don't think so, no.

22 MS. HARRIS: Would you favor, for example, the  
23 testimony of a police officer over a civilian?

24 THE JUROR: No.

25 MR. CURRAN: I see your husband is retired.

1 THE JUROR: Yes.

2 MR. CURRAN: What did he do?

3 THE JUROR: He worked for Verizon for 36 years.

4 MR. CURRAN: The fact that Shawn Drumgold was  
5 released, would that cause you to draw any conclusions  
6 before hearing the evidence in any way?

7 THE JUROR: No. I guess I probably just don't  
8 know enough about that legal aspect that, no.

9 MR. CURRAN: Thank you very much.

10 THE COURT: Ms. Scapicchio.

11 MS. SCAPICCHIO: Hi, I'm Rose Scapicchio. This is  
12 Michael Reilly. We represent the plaintiff Shawn Drumgold  
13 in this case. I had a few follow-up questions from what the  
14 defense attorneys asked you.

15 THE JUROR: Sure.

16 MS. SCAPICCHIO: One of the questions I have is  
17 because your son-in-law is a police officer, would you tend  
18 to believe the testimony of a police officer over that of a  
19 civilian witness?

20 THE JUROR: No.

21 MS. SCAPICCHIO: Some people think that the job  
22 police officers do in society is so important that they  
23 should never be sued for anything that happens in their  
24 official capacity. Do you agree with that?

25 THE JUROR: I don't 100 percent agree with that,

1 no.

2 MS. SCAPICCHIO: When you say 100 percent, what do  
3 you mean?

4 THE JUROR: I'm not somebody who would sue myself,  
5 I don't believe.

6 MS. SCAPICCHIO: When you say you don't believe,  
7 what do you mean?

8 THE JUROR: I really don't, I never thought about  
9 whether or not someone would sue the police or sue an  
10 individual, or it's just not something that I've really  
11 given much thought to. I guess everybody has their own  
12 legal rights to do whatever they feel is necessary for  
13 themselves.

14 MS. SCAPICCHIO: Would you have any bias against  
15 someone who did sue the police?

16 THE JUROR: No, I would not.

17 MS. SCAPICCHIO: And when Judge Gertner asked you  
18 the question No. 27 that you had checked you oppose lawsuits  
19 filed by wrongly convicted people against the police  
20 department, can you tell me a little bit why you checked  
21 that?

22 THE JUROR: You know, I checked that, you know, it  
23 was funny yesterday after the fact after I was sitting there  
24 thinking, I don't know how I really should have answered  
25 that question. It was one question that stuck in my head

1 because I thought -- I don't know whether or not I find  
2 enough thought about it. I'm just not really clear.

3 If somebody were to sue, then they sue. It's  
4 their legal right to do so, and they're justified. I don't  
5 know why I answered it that way, I really don't.

6 MS. SCAPICCHIO: Would you hold it against them  
7 because of your belief that you would oppose those types of  
8 suits?

9 THE JUROR: No, I would not, no, no.

10 MS. SCAPICCHIO: Now, in this case if the evidence  
11 suggested that Detective Walsh and Detective Callahan  
12 violated Shawn Drumgold's civil rights and that violation  
13 led to his wrongful conviction, would you have any concerns  
14 about awarding damages if you knew that Shawn had a criminal  
15 past?

16 THE JUROR: No.

17 MS. SCAPICCHIO: And in the same vain, if the  
18 evidence supported the fact that Detective Walsh and  
19 Detective Callahan violated Shawn Drumgold's civil rights  
20 and that violation led to his wrongful conviction, would you  
21 have any concerns awarding damages if you knew that Shawn  
22 had a drug problem?

23 THE JUROR: No.

24 MS. SCAPICCHIO: Can I just have a moment, your  
25 Honor?

1 THE COURT: Yes.

2 MS. SCAPICCHIO: I don't think I have anything  
3 further, your Honor.

4 THE COURT: You need to call this number after  
5 6:00 today and have your juror number which was on the  
6 summons and then with that you'll know whether you are on  
7 the final jury. If you are, you're to come tomorrow  
8 morning. Don't research the case, don't think about it.  
9 Okay.

10 Hi, Mr. McKenna.

11 THE JUROR: Hello, your Honor, how are you?

12 THE COURT: Okay. Let me just start in answer to  
13 this question, people who have been wrongly convicted  
14 sometimes bring lawsuits against the police department. Do  
15 you favor or oppose this type of lawsuit? You said oppose?

16 THE JUROR: Yes.

17 THE COURT: And that's kind of important since  
18 this case is about a lawsuit against the police for their  
19 role in the alleged wrongful conviction of Shawn Drumgold.  
20 The question is whether you feel like because of your  
21 feelings about these lawsuits that you couldn't be a fair  
22 juror?

23 THE JUROR: I think that could be an issue, and  
24 actually I don't know if I should start off with -- I think  
25 I might have heard of this case prior to yesterday.

1 THE COURT: Okay.

2 THE JUROR: And it just didn't ring a bell to me.  
3 Well, I didn't put two and two together yesterday when you  
4 were asking, but I knew that the name Drumgold kind of rang  
5 a bell for me.

6 THE COURT: Let's separate one thing. So if  
7 somebody who says I don't like these kind of cases, I'm  
8 opposed to these kind of cases, you're a juror and there's a  
9 lawsuit, and the law says these cases are appropriate to be  
10 brought, do you think the feelings of these kind of cases  
11 would make it hard for you to sit as a juror?

12 THE JUROR: Probably. I would have a tough time.  
13 It would have to be proven without a shadow of a doubt that  
14 the police officers or the police department were willfully  
15 negligent in their duties.

16 THE COURT: Okay. That's not the law, but it  
17 sounds like you'd be starting there anyhow. I'm going to  
18 excuse you, thank you, Mr. McKenna, thank you very much.

19 The next to last person is Alexis Watts. In the  
20 next pool, there's another group of how many jurors, 14. In  
21 other words, we can excuse anyone who has any kind of  
22 problem, we have 14 left, and we will surely pick a juror  
23 from that. So with your permission, I'd like to excuse  
24 anyone who had any kind of problem leaving just 14. Is that  
25 okay?

1 MS. SCAPICCHIO: Not a problem from the  
2 plaintiff's side, your Honor.

3 THE COURT: Fine, you can excuse them. By all  
4 means, excuse anybody who has any problem. We will be  
5 needing two or possibly just one after we talk to this  
6 juror, so we'll be able to do it from the pool of 14.  
7 Thanks. Bring in the next juror who is Ms. Watts. Hi.  
8 It's been a long morning.

9 THE JUROR: Yes.

10 THE COURT: I think we'll start with  
11 Ms. Scapicchio.

12 MS. SCAPICCHIO: Hi. I'm Rose Scapicchio. This  
13 is Michael Reilly, and we represent the plaintiff who is  
14 Shawn Drumgold. I just want to give you a little background  
15 about the case to see if it jogs your memory at all and see  
16 if you know anything at all about the case. This case  
17 started in 1988 when a little girl by the name of Darlene  
18 Tiffany Moore was shot and killed. The police arrested my  
19 client, Shawn Drumgold. He was tried and convicted of  
20 first-degree murder. He was sentenced to life in prison,  
21 and 15 years later he filed a motion for a new trial and was  
22 released.

23 Does the name Drumgold or Tiffany Moore, do any of  
24 those ring a bell to you?

25 THE JUROR: No.



1 MS. SCAPICCHIO: Do you ever remember reading or  
2 hearing either about the Tiffany Moore murder or the  
3 Shawn Drumgold case?

4 THE JUROR: No. I was four when it first  
5 happened.

6 MS. SCAPICCHIO: Well, let me ask you this, some  
7 people think that the role that police officers play in  
8 society are so important that they should never be sued for  
9 anything that happens while they're on duty. Do you agree  
10 with that?

11 THE JUROR: No.

12 MS. SCAPICCHIO: Would you tend to believe the  
13 testimony of a police officer over that of a civilian  
14 witness simply because of his or her position as a police  
15 officer?

16 THE JUROR: Not necessarily.

17 MS. SCAPICCHIO: Okay. And in this case, if the  
18 evidence suggested that Detective Walsh and Detective  
19 Callahan violated Shawn Drumgold's civil rights and that  
20 violation led to his wrongful conviction, would you have any  
21 concerns about awarding damages if you knew that Shawn had a  
22 criminal past?

23 THE JUROR: No.

24 MS. SCAPICCHIO: In the same vain, if the evidence  
25 suggested that Detective Walsh and Detective Callahan

1 violated Shawn Drumgold's civil rights and that violation  
2 led to his wrongful conviction, would you have concerns  
3 awarding damages if you knew that Shawn had a problem with  
4 drugs?

5 THE JUROR: No.

6 MS. SCAPICCHIO: I don't have anything further.  
7 Thank you.

8 THE COURT: Counsel.

9 MS. HARRIS: Good morning. My name is Mary Jo  
10 Harris, and I along with my colleagues represent Detective  
11 Callahan and Detective Walsh. I noted from your  
12 questionnaire you worked as an intern in the district  
13 attorney's office; is that right?

14 THE JUROR: Right.

15 MS. HARRIS: Which district?

16 THE JUROR: North Hampton.

17 MS. HARRIS: When did you perform that work?

18 THE JUROR: It was right before I graduated, so  
19 '06.

20 MS. HARRIS: What kind of work were you doing  
21 then?

22 THE JUROR: I was mostly filing dockets and  
23 sitting in the courtroom.

24 MS. HARRIS: Did you have the opportunity to  
25 observe any criminal trials?

1 THE JUROR: Yeah.

2 MS. HARRIS: And civil trials?

3 THE JUROR: Yeah.

4 MS. HARRIS: Did you have any role working either  
5 as a victim witness advocate or in any other support  
6 capacity directly with any of the prosecutors?

7 THE JUROR: No.

8 MS. HARRIS: Okay. Now, as I'm sure you  
9 understand, this is a civil rights suit where the plaintiff  
10 is alleging one set of circumstances and the defense is  
11 countering with their own set of circumstances. Would you  
12 have any difficulty keeping an open mind about the facts of  
13 this case as the evidence was presented?

14 THE JUROR: No.

15 MS. HARRIS: Gentlemen.

16 MR. CURRAN: I have no questions, thank you.

17 THE COURT: Okay. I'm going to give you a number  
18 to call after six o'clock today.

19 THE JUROR: Okay.

20 THE COURT: You need your juror number, they'll  
21 let you know if you're on the final jury, if you are, you  
22 need to report. Don't read anything about this case, don't  
23 go online, and if you're selected, we'll see you in the  
24 morning. Thank you very much.

25 Now, unfortunately this is not just calling the

1 next group, we need to examine them. The fastest thing is  
2 to go out then with the 14 and examine them, introduce you  
3 and read the list of witnesses. One way we could do this --  
4 they haven't been sworn.

5 MS. SCAPICCHIO: Have they completed the  
6 questionnaires?

7 THE COURT: They have completed the  
8 questionnaires. We could select a jury of 13 and you can  
9 still have five challenges on each side. Essentially  
10 because it's a civil jury, we have some wiggle room with  
11 respect to the size of the jury. If you want to do that, we  
12 could do that. If you want to take a moment, then you pick  
13 a juror and we're all set. You pick 13, you have 5 on each  
14 side.

15 THE CLERK: Or you can 14 with 4 and 4.

16 THE COURT: We have 23. You have 23 now so if you  
17 picked a jury of 13, 13, 5 and 5.

18 THE CLERK: Or 14, 4 and 4.

19 THE COURT: Does anyone have an objection if we  
20 pick a jury of 13?

21 MR. CURRAN: No.

22 THE COURT: Then why don't we stop now then and  
23 what I'd like to do is give you about till 1:00. At 1:00,  
24 come in and exercise your peremptory challenges and the  
25 remaining 13 will be the jury.

1 MS. HARRIS: Do we go one for one?

2 THE COURT: Yes, one for one.

3 MR. CURRAN: Judge, I just have a thing to throw  
4 out to the court, I was hoping since I had medication last  
5 night and this morning that I'd start to feel better. I  
6 don't feel up to speed.

7 THE COURT: You don't have to stay.

8 MR. CURRAN: No, I understand that, I'll stay. I  
9 have no problem staying.

10 THE COURT: Anything else?

11 MR. CURRAN: If I start tomorrow, it may be an  
12 issue?

13 THE COURT: No, it won't be an issue.

14 MR. CURRAN: My client's entitled.

15 THE COURT: No, I understand that. I think you  
16 can take the rest of the afternoon off. I mean, obviously  
17 if you feel pretty grim, but I'm worried about this time of  
18 year and people getting sick, and I'm worried about getting  
19 started and getting the chunk of the case. I want to also  
20 let you know that my secretary called, is in the process of  
21 calling the Criminal Offender Records Board.

22 MR. CURRAN: That has nothing to do with me  
23 putting it out there.

24 THE COURT: I want to let you know and find out  
25 whether there really is this Idiotic rule that with a court

1 order that you can't get things in hand. She's talking to  
2 the head of it.

3 MR. WHITE: Those are two different voices, the  
4 probation department and the criminal systems board.

5 THE COURT: Who have you been dealing with?

6 MR. CURRAN: Criminal history over at the  
7 Ashburton Place. That's the Commissioner of Probation.

8 MR. WHITE: The Criminal History Board is over in  
9 Chelsea.

10 MR. CURRAN: He's been dealing with Jack O'Brien's  
11 office, Commissioner of Probation.

12 THE COURT: Because CORI approves it and gives  
13 their records to them.

14 MR. CURRAN: No, it gives right to them and they  
15 issue the records to us. He's the Commissioner.

16 THE COURT: All right. So we'll see you at one  
17 o'clock.

18 MS. SCAPICCHIO: Thank you.

19 (A recess was taken.)

20 THE CLERK: All rise.

21 THE COURT: You can be seated. First, Mr. Curran,  
22 you got the faxes?

23 MR. CURRAN: My investigator called, and he got it  
24 at the same time. Thank you very much for your assistance.  
25 We have provided -- I know they have a laptop, provided DVDs

1 of the presentation, our presentation and the images. We'll  
2 have the form, and I'll talk with Mr. Carney, I know he's on  
3 trial down in Rhode Island about a protective order that  
4 you'll be happy with, but I think the Court can make an  
5 order now verbally for all counsel that WIN Interactive is  
6 provided in this courtroom, not outside this courtroom, and  
7 not disseminated.

8 THE COURT: No question, I will enter such an  
9 order. WIN Interactive is a bit of the problem because the  
10 actual document comes in as a chalk. In other words, the  
11 Limone case, for example, there was an exhibit that was  
12 their interactive timeline.

13 MR. CURRAN: We don't intend to introduce it as an  
14 exhibit.

15 THE COURT: Using it as a chalk.

16 MR. CURRAN: As an illustration and chalk only,  
17 your Honor. If you would like to mark it for identification  
18 purposes.

19 THE COURT: I think it's safer. Also, by the way,  
20 I was on the phone with Judge Hinkle the questions that the  
21 jurors asked are clearly public record. She'll find out  
22 what she can do.

23 MS. SCAPICCHIO: I actually spoke to her clerk  
24 over the break, your Honor, and an attorney from  
25 Mr. Reilly's office is hand delivering another copy of your

1 order and the original motion to Judge Hinkle.

2 THE COURT: The difficulty is that the state  
3 clerk's office doesn't understand that an ECF order is an  
4 order.

5 MS. SCAPICCHIO: Apparently there was no  
6 signature, as they understood it, on the order, and that was  
7 the holdup. They didn't see a written signature, they  
8 didn't understand that the e-filing here is gold because it  
9 doesn't apply in state court.

10 THE COURT: Okay. All right. We'll start with  
11 the plaintiff, we'll alternate one from the plaintiff, one  
12 from the defendant side, 5 each, and we'll select 13, so  
13 starting with Ms. Scapicchio.

14 MS. SCAPICCHIO: Thank you, your Honor. We'd move  
15 to challenge juror No. 16, Larry Apple.

16 THE COURT: Jury 16, Larry Apple. Okay.

17 MS. HARRIS: The defense would move No. 60.

18 THE COURT: Juror 60, Ronald Webb. Okay.

19 MS. SCAPICCHIO: Your Honor, was Mr. Webb the only  
20 minority that we cleared today? My memory is that he was  
21 the only minority that we cleared today. I'm concerned that  
22 Mr. Drumgold is African-American, that the only chance that  
23 he has of any minority sitting on the jury would be that  
24 particular juror.

25 MS. HARRIS: I can't remember what Mr. Webb looks



1       like. I remember that he had issues with his child's  
2       arrest.

3               THE COURT: I agree that he had issues to the  
4       extent that applies to a civil case.

5               MR. CURRAN: Judge, for the record, Judge, I don't  
6       know if he was Portuguese.

7               THE COURT: I think he was Portuguese.

8               MR. CURRAN: So, again --

9               THE COURT: It's not an issue. Okay, next,  
10      plaintiff.

11              MS. SCAPICCHIO: Juror No. 44, Paul Butler.

12              THE COURT: Paul Butler, juror No. 44.  
13      Defendant.

14              MS. HARRIS: Yes, juror No. 28, Lisa Laing.

15              THE COURT: 28, Lisa Laing. Plaintiff.

16              MS. SCAPICCHIO: Juror No. 32, I don't know how to  
17      say his name, Rao Girish.

18              THE COURT: Rao Girish, 32. Of course a minority  
19      as well, okay.

20              MS. HARRIS: Juror No. 17, Soraya Assar.

21              THE COURT: Soraya Assar, juror No. 17.

22              MS. SCAPICCHIO: Juror No. 55, Mary T. Murphy.

23              THE COURT: Juror 55, Mary Murphy.

24              MS. HARRIS: Juror 41, Francisco Parra.

25              THE COURT: 41, Francisco Parra.

1 MS. SCAPICCHIO: And juror No. 70, Patricia  
2 Sexton.

3 THE COURT: 70, Patricia Sexton. That's your  
4 last. This is your last, defendant.

5 MS. HARRIS: I'm sorry, may I have just a moment?

6 THE COURT: Of course.

7 MS. HARRIS: Juror 21, Kristie Froman.

8 THE COURT: Okay. The jury is juror No. 1,  
9 Christopher Curran; juror No. 2, Joseph Baio;  
10 3, Paul Gedutis; 4, Joseph Ryan; 5, Bruce Bridges; Ellen  
11 Perry; 7, Donna Olson; 8, Peter Higgins; 9, Wendy Rosko;  
12 10, Robin Crowley; 11, Regina Catania; 12, Raymond Marchand;  
13 13, Alexis Watts. Maryellen, you have that?

14 THE CLERK: Yes.

15 THE COURT: The jury will report at nine. It's  
16 the only way to get parking around here, but we in fact will  
17 start at ten to give everybody an opportunity to set up. If  
18 you would like to use the courtroom -- is there a problem  
19 with that, Maryellen?

20 THE CLERK: No.

21 MS. SCAPICCHIO: I had one additional question,  
22 your Honor. I'm not sure if it's appropriate in a civil  
23 case or not. My understanding from the court reporter is  
24 that the defendants have ordered daily copy of the  
25 transcript. Mr. Drumgold has filled out a financial

1 affidavit indicating that he's indigent. I don't know if  
2 there is available in a civil case --

3 THE COURT: I'm not sure that there is. We have  
4 to find that out.

5 MS. SCAPICCHIO: Okay.

6 THE COURT: There are two issues here, which is  
7 that because he's asking for damages, any money he gets from  
8 the public would have to be returned.

9 MS. SCAPICCHIO: Absolutely.

10 THE COURT: I'm not sure there's even funds for a  
11 non-habeas civil case, and we need to find that out. Okay,  
12 but otherwise I'll let you know in the morning.

13 MS. SCAPICCHIO: Thank you, your Honor.

14 THE CLERK: All rise.

15 (Whereupon, the hearing was suspended at  
16 1:09 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT )  
DISTRICT OF MASSACHUSETTS )  
CITY OF BOSTON )

I, Valerie A. O'Hara, Registered Professional  
Reporter, do hereby certify that the foregoing transcript  
was recorded by me stenographically at the time and place  
aforesaid in No. 04-11193-NG, in re: Shawn Drumgold vs.  
Timothy Callahan and thereafter by me reduced to typewriting  
and is a true and accurate record of the proceedings.

/S/ VALERIE A. O'HARA

\_\_\_\_\_  
VALERIE A. O'HARA

REGISTERED PROFESSIONAL REPORTER

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